A GUIDE TO THE PROPOSED ALBERTA ENVIRONMENTAL PROTECTION AND ENHANCEMENT LEGISLATION

For Public Discussion and Response

PREMIER'S MESSAGE

The 1990s will be a decade of steady growth and diversification for Alberta's economy, and my Government is commited to ensuring that the benefits of a healthy economy today also mean a healthy environment for future generations of Albertans.

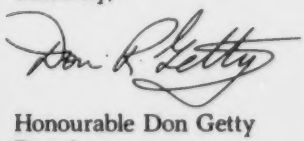
That is why we are proposing comprehensive new environmental legislation for Alberta.

I hope you will read this discussion paper and the appended legislative ideas generated from our consultations over the last year with environmental stakeholders and the general public.

Your further ideas, comments and support are necessary for us all to achieve a healthy standard of living, lifestyle and environment. I look forward to being able to table with the Legislative Assembly a new Alberta Environmental Protection and Enhancement Act.

We are committed to continuing our environmental leadership to keep Alberta beautiful and strong.

Sincerely,



Honourable Don Getty
Premier

MINISTER'S MESSAGE

In the 1990 Speech from the Throne the Alberta Government pledged to develop comprehensive new environmental legislation for Alberta. We are pleased to present this discussion paper on the proposed Alberta Environmental Protection and Enhancement legislation.

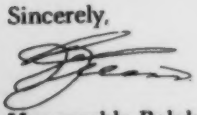
This discussion paper represents the third stage of our five stage process leading to the introduction of a new Alberta Environmental Protection and Enhancement Act. The first stage was release of the Government's environmental principles and policies - "Alberta's Environment - Toward the 21st Century". The second stage was to receive the comments of Albertans on these principles and policies. Those comments have resulted in the release of this discussion paper and appended legislative ideas.

Your comments will be further sought over the next several months through meetings to be held around Alberta. This consultation will see a new act introduced to the Legislative Assembly of Alberta in the spring of 1991.

I encourage you to participate in this consultation process. This discussion paper contains an overview of what we propose to include in the new legislation.

Your contribution to this process now will ensure a healthy environment is maintained for future generations of Albertans. Thank you.

Sincerely,



Honourable Ralph Klein
Minister of Environment

KEY FEATURES OF THE PROPOSED LEGISLATION

- establishment of a legislated environmental impact assessment process (EIA).
- increased public consultation and participation in all aspects of environmental protection and enhancement activities.
- timely and effective enforcement mechanisms.
- increased penalty provisions - fines of up to $1 million and up to six-month jail terms.
- increased public access to information.
- statutory requirements for waste reduction and recycling.
- mandatory spill reporting and clean-up.
- integrated approval process which recognizes the interdependence between water, air and land.
- 25-year owner/operator liability for site clean-up and reclamation costs.
- liability of corporate officers and directors for environmental offences.

INTRODUCTION TO THE PROPOSED ALBERTA ENVIRONMENTAL PROTECTION AND ENHANCEMENT ACT

YOUR NOTES

The Government of Alberta is committed to the protection, improvement and wise use of our environment today, tomorrow and into the 21st century. The proposed Alberta Environmental Protection and Enhancement Act represents an important new step in continuing to put this commitment into practice.

The proposed Act was developed in draft form to allow Albertans' input into this important new legislation. This guide is designed to assist in the public consultation process by summarizing the key areas of the proposed legislation as well as by indicating which areas represent existing, enhanced, and new legislative provisions. This guide presents an overview of the draft legislation; it does not contain all of the provisions of the legislation. Consult the discussion draft of the proposed legislation for complete information.

BACKGROUND

Alberta Environment has been coordinating environmental policies, programs and services for nearly 20 years. Until now, the department's authority and responsibility for environmental protection and enhancement was set out in 10 separate statutes. The proposed Alberta Environmental Protection and Enhancement Act (AEPEA) is a new direction for a new decade and for the new century to come.

Environmental values and concerns have changed dramatically since 1971 when the Alberta Department of the Environment was established. Greater

pressures on the environment have made the environmental problems and the necessary technologies increasingly complex. People are now more concerned about their environment; not only are they more concerned, but they want to be more involved in environmental decision making as well.

The proposed Alberta Environmental Protection and Enhancement legislation consolidates a solid base of existing environmental protection and enhancement legislation. The proposed legislation also clarifies and strengthens legislative provisions to ensure protection, enhancement and wise use of Alberta's environment for the present and the future. In addition, the discussion draft incorporates several new provisions to address evolving environmental issues of the 1990s.

Recognizing that environmental concerns and impacts respect neither physical nor political boundaries, the Alberta government is committed to cooperating with other governments in the management of environmental issues which affect our neighbours. The proposed legislation contributes to effective intergovernmental cooperation while reinforcing Alberta's constitutional responsibilities for the management of our environment in Alberta.

The proposed Alberta Environmental Protection and Enhancement legislation consolidates the following acts: Agricultural Chemicals Act, Beverage Container Act, Clean Air Act, Clean Water Act, Ground Water Development Act, Hazardous Chemicals Act, Land Surface Conservation and Reclamation Act, and the Litter Act along with some sections of the current Department of the Environment Act. As water is an integral part of the environment, the province's water management legislation will become part of the consolidated environmental legislation. The Water Resources Act, because of its complexity and

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long history in Alberta, will be reviewed separately and included later.

Consolidation of these nine existing acts will allow an integrated approach to the environment rather than the independent management of air, water and land. The proposed legislation provides an overall framework for environmental protection and enhancement in Alberta which will enable the government to respond to new environmental pressures so it can ensure the continued quality of our environment for future generations.

The proposed Alberta Environmental Protection and Enhancement legislation includes effective ways for Albertans to contribute their input and advice on environmental decisions. The consolidation of existing acts into a single piece of legislation will yield straightforward, streamlined and effective environmental laws for Albertans, eliminate duplications among existing acts and set out a consistent framework of laws, regulations and guidelines. In addition, the discussion draft clearly responds to and reflects the public's direction on the principles and policies set out in the government's vision document "Alberta's Environment Toward the 21st Century", issued in January, 1990.

The proposed Alberta Environmental Protection and Enhancement legislation encompasses a whole range of environmental jurisdiction, therefore, each of the broad principles set out in the vision document may be addressed in more than one of the 11 parts of the discussion draft.

YOUR NOTES

REFLECTING ENVIRONMENTAL PRINCIPLES IN THE LEGISLATION

1. Shared Responsibility

All Albertans are responsible for ensuring the protection, improvement and wise use of our environment through their actions as individual citizens.

The proposed legislation recognizes that all sectors of society — government, industry, the public, — share responsibility for ensuring environmental protection. The legislation establishes a number of areas of individual public responsibility such as the following:

- individuals who cause releases into the environment must report such incidents.
- individuals who have caused adverse environmental effects must take action to repair and remedy those effects and must bear the cost of such actions.
- individuals must comply with litter disposal requirements and must clean up unsightly property.
- individuals must assist investigators where necessary.
- pesticide users must comply with safe handling and storage requirements.
- where pesticide application causes injury, damage or impairment to human health or the environment, applicators must notify specific parties and take steps to decontaminate the environment.

YOUR NOTES

2. Leadership

YOUR NOTES

Albertans will continue to show national leadership through leading edge research, technologies and environmental protection standards.

The proposed legislation acknowledges the importance of government leadership and is designed to enable the government to provide effective direction on environmental matters.

The proposed legislation enables Alberta Environment to support, direct and participate in research on environmental matters. It also gives the Minister the power to develop environmental objectives, standards and guidelines.

3. Public Involvement

Albertans will have every opportunity to understand and provide advice on decisions affecting our environment.

Providing opportunities for public participation in environmental protection is a key feature of the draft legislation.

The proposed legislation enables members of the public to participate in the decision-making process for developments through:

- participation in the Environmental Impact Assessment process.
  - all projects reviewed for the EIA process will be listed publically.
  - draft terms of reference for EIAs will be made available for public comment.
  - the public will have notice of and access to all completed EIAs.

- public hearings will be held to review all major projects.

- involvement in the approval-granting process.
  - notice of applications for approval will be made public.
  - members of the public who are or may be directly affected by a project may file statements of concern about applications for approvals.
  - the public may object to an approval if they have not been consulted.
  - the applicant or directly affected public may object to the terms and conditions of an approval.

The proposed legislation encourages public environmental awareness and education:

- all information provided under the Act will be made public except where disclosure may harm the interests of a party (eg. commercially sensitive business information).
- Alberta Environment will maintain an environmental library and will develop, publish and distribute educational material.

The proposed legislation requires that a wide range of information be made available to the public including an annual state of the environment report, advisory committee reports, environmental quality information, along with environmental objectives and guidelines developed by the Minister.

It will also enable the public to become involved in enforcement of the Act by incorporating provisions allowing individuals to apply to Alberta Environment for an investigation of an alleged offence, and by requiring reporting of any releases

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into the environment. The department will report to applicants its progress on investigations of alleged offences.

YOUR NOTES

4. Action on Environmental Protection

Albertans are committed to protecting our environment by anticipating problems and preventing or mitigating environmental impacts of policies, programs, decisions and development activities.

The proposed legislation enables effective action to be taken to ensure environmental protection. Provisions to anticipate and prevent adverse environmental impacts, and ensure efficient pollution control include the following:

- applicants are required to anticipate environmental problems, and to make plans to respond to such problems as part of their approvals.
- monitoring and evaluation of environmental quality is required.
- Alberta Environment may set specific terms and conditions in approvals.
- inspectors have broad powers to ensure monitoring and evaluations are efficiently and effectively carried out.
- approval holders are required to report on their monitoring and evaluation activities.

The proposed legislation encourages recycling and conservation:

- approval applicants are required to consider waste minimization and reduction measures and know these measures will be implemented.
- the government will encourage waste minimization and recycling through incentives.

YOUR NOTES

5. Polluters Pay

The costs of preventing and reclaiming environmental impacts will be borne by the polluter.

The proposed Alberta Environmental Protection and Enhancement legislation seeks to place responsibility on parties who use the environment for any adverse effects they may cause. One of the most important principles requires polluters to pay for environmental damage and for the cost of corrective action.

It also enables the government to recover from polluters costs entailed in dealing with environmental clean-up, and provides more powers to the courts in such matters. Provisions include the following:

- approvals for proposed projects require consideration and preparation of an emergency response plan.
- approvals may require payment of security deposits.
- deposits will be held in the Conservation and Reclamation Security Fund to act as an incentive to encourage operators to carry out land reclamation.

- polluters may be ordered by the courts to compensate the government for the cost of remedial or preventative action taken as the result of an offence.
- polluters may be ordered by the courts to pay compensation to an individual for loss or damage to property as the result of an offence.
- reclamation costs may be recovered from the Conservation and Reclamation Security Fund, and also by diverting funds from purchasers of sites subject to reclamation.
- costs to deal with unsightly property may be recovered from the local authority.
- costs for emergency measures, clean-up action and compensation for loss or damage suffered as a result of releases may be recovered from those responsible.
- costs incurred by government to ensure compliance with environmental protection orders may be recovered from polluters.

6. Legislative and Regulatory Action

Albertans' expectations for vigorous protection and enforcement will be translated into comprehensive and publicly responsive legislative action.

The proposed legislation recognizes the need for strong laws and enforcement; it will impose stricter regulatory controls and ensure fair application of the laws to all Albertans.

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The proposed legislation creates clear regulatory provisions to standardize and clarify both the EIA process and the approval process. In the latter process, it also requires applicants to provide information on a wide range of matters such as recycling, emergency response plans, reclamation, etc. As well, the proposed legislation sets out in detail the requirements for release reporting and clean-up.

Stronger penalties have been established for offenders. Fines and penalties are increased up to a maximum of $1 million and six months in jail for the most severe offences. A wide range of sentencing options is made available to the courts, offending operations may be closed down through enforcement orders, and corporate officers, directors and agents may be held liable for offences of their corporations.

The proposed legislation ensures fair, firm and consistent enforcement by granting broad powers to investigators, enabling investigators to use search and seizure provisions, requiring all parties to assist investigators, and by creating an offence for hindrance or interference with investigators.

7. Integrated Decision-Making

Protection of the environment will not be compromised by future development. Development decisions will be made through a process that ensures wise use of resources while considering economic growth and prosperity.

The proposed Alberta Environmental Protection and Enhancement legislation recognizes the importance of cooperative decision making and the interdependence of air, land and water.

YOUR NOTES

The proposed legislation establishes Alberta Environment's position within the government to fulfill its environmental protection responsibility. The Crown will be subject to the Act which requires all government departments to comply with the legislation.

The proposed legislation contains provisions for interdepartmental consultation, such as the Sustainable Development Coordinating Council and for delegation of functions. It also enables the government to enter into agreements with other governments on environmental matters.

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8. Intergovernmental Cooperation

Albertans recognize their responsibilities to other Canadians and strive to prevent and minimize transboundary environmental impacts. Therefore, Albertans need their Government to work cooperatively with other provinces, the territories and the federal government to achieve environmental protection, improvement and wise use, always recognizing our constitutional responsibilities.

The proposed legislation acknowledges the integrated nature of environmental matters and the necessity for cooperative intergovernmental action. It establishes a number of provisions to coordinate the environmental policies and programs of all levels of government.

The government is empowered to enter into agreements with other governments, to transfer administration and enforcement of the Act's provisions to federal or local authorities; to prepare emergency response plans in cooperation with

other governments; and to designate employees of other governments to act as inspectors, investigators or analysts.

YOUR NOTES

9. Sustainable Development

Albertans are dedicated to achieving sustainable development which ensures that the utilization of resources and the environment today does not impair prospects for their use by future generations.

The principle of sustainable development is central to the proposed legislation; a major goal is to ensure that environmental quality is maintained as economic development occurs.

The EIA process deals with all proposed major projects, and those with potential environmental impacts. The proposed legislation specifies that certain major projects must be referred to the Natural Resources Conservation Board or the Energy Resources Conservation Board for reviews.

10. Improving Our Environment for Future Generations

Albertans are committed to the improvement of our environment wherever possible to enhance the quality of life today and for future generations.

The proposed Alberta Environmental Protection and Enhancement legislation includes provisions to ensure the improvement of environmental quality for the future. The proposed legislation ensures that environmental issues will take precedence over the long-term because it will apply equally to the Crown and the private sector.

The proposed legislation encourages local authorities to take steps to protect environmental quality by recognizing their responsibility for waste disposal, and by allowing the provincial government to enter into agreements with local authorities on any environmental matter.

The proposed legislation also enables the government to take protection and improvement action by allowing the use of environmental protection orders as an abatement measure, by requiring enforcement orders in cases of contraventions of the Act, and by granting Alberta Environment broad powers to undertake remedial or preventative action in cases of non-compliance with environmental protection or enforcement orders.

YOUR NOTES

THE ALBERTA ENVIRONMENTAL PROTECTION AND ENHANCEMENT ACT

YOUR NOTES

PART I
Consultation, Communication and Education

Part I of the proposed legislation is designed to encourage and assist participation by all Albertans in decisions affecting our environment. It maximizes participation by the public, government departments, other governments, industry and experts, recognizing the integrated nature of the environment. It encourages, by means of consultation, information-sharing and education, public sharing of responsibility for the protection, improvement and wise use of our environment.

Existing legislative provisions for advisory committees and referral committees have been retained in the proposed legislation, as has the provision allowing the Minister to develop emergency response plans in cooperation with other government departments and agencies.

Enhanced provisions in this Part include the creation of the Sustainable Development Coordinating Council, an expansion of the current Natural Resources Coordinating Council. The new council will focus on coordination of economic development and environmental protection. Boards of review will permit public review of specific matters pertaining to public concerns, such as, objections to environmental approvals.

Further enhancements to existing legislative provisions will see the Minister publish an annual report on the state of the environment of Alberta, issue publications on environmental quality and

develop environmental quality objectives and guidelines. The proposed legislation continues a commitment to active participation in research, allows appeals of decisions by directors, and increases public access to information on activities which may affect the environment.

The new provisions in this Part reflect Alberta Environment's commitment to public information sharing and participation. Public notification of applications for licensing approvals is required, as recommended by "The Action Plan for Environmental Law Enforcement", and members of the public who are affected by these applications will be able to file statements of concern and provide input into the approval process. The Department will also ensure that environmental education is continued and expanded by developing, publishing and distributing a range of environmental educational materials.

YOUR NOTES

REGULATORY FRAMEWORK

Existing Regulations

Department of the Environment Act
- Environment Grant Regulation

Clean Air Act

Clean Water Act
- Release of Monitoring Information Order

Ground Water Development Act
- Ground Water Development General Amendment Regulation

Land Surface Conservation and Reclamation Act
- Administrative Transfer Regulation

New and Enhanced Regulatory Areas

Board of Review
To cover the proceedings, conduct of hearings, remuneration of board members and criteria for awarding intervenor costs.

Publication/Public Input Into Objectives and Guidelines
To establish the process for publishing new objectives and guidelines and the manner and time period in which written public comment will be received.

Tariff of Fees
To set out fee schedules for a number of items including provision of fees for information.

Notice of Objection
To describe the form and content for a notice of objection where it is available under the AEPEA.

YOUR NOTES

PART II
Environmental Impact Assessment and Approval

Part II describes environmental impact assessment (EIA) and approval processes for projects and activities. The public will have full knowledge of proposed projects and activities and will have input into environmental decision making. Overall, this part ensures that economic development in Alberta occurs in an environmentally responsible manner.

The legislation's new provision in this Part establishes an environmental impact assessment process in which all major projects and those with potential adverse environmental impacts will be reviewed. The EIA process will allow for public notice of all projects under review, public input into draft terms of reference for EIAs, public access to reasons for requiring, or not requiring EIAs, public notice of and access to completed EIAs and the opportunity for all interested parties to participate in public hearings required for major or controversial projects.

The proposed legislation also requires that applicants provide information on a wide range of matters including the need for a project, practical alternatives, likely environmental changes, social, cultural and economic effects of environmental changes, and effects caused by normal operation and by accidents. Proposed projects will be rejected at the end of the EIA process if they are not deemed to be environmentally sustainable and if negative environmental impacts cannot be mitigated. Projects which have successfully completed the EIA process will be subject to approval requirements.

YOUR NOTES

The proposed legislation builds on the existing legislative provisions which require approvals and in some cases security deposits as part of the project application process. Applications now must contain information regarding measures to reduce adverse effects on the environment and emergency response planning. The public will be advised of applications for approval and will be able to file statements of concern and objections to approvals.

Existing provisions dealing with certificates of competence for individuals carrying out specified activities will be retained.

YOUR NOTES

REGULATORY FRAMEWORK

Existing Regulations

Agricultural Chemicals Act
- Pesticide Applicator Licensing Regulation

Pesticide Sales, Use and Handling Regulation
- Beverage Container Act
- Beverage Container Regulations

Clean Water Act
- Clean Water Municipal Plant Regulations
- Clean Water Industrial Plant Regulations
- Ground Water (General) Regulations

Clean Air Act
- Clean Air (General) Regulations

Ground Water Development Act
- Ground Water Development Act (General) Regulations

Land Surface Conservation and Reclamation Act
- All Present Regulated Surface Operation Regulations
- Land Conservation Regulations
- Clean Air Act S.3(1), S.4
- Clean Water Act S.3, S.4

New and Enhanced Regulatory Areas

List of Activities Requiring Approval and Exemptions
To list activities that require approval where they are not listed in the Act, and exemptions from approval.

Public Notice of Applications for Approval
To specify public notification procedures for the application and the issuance, amendment and cancellation of approvals.

Emergency Response Plan
To impose a duty on industry to prepare emergency response plans with specified content to ensure public protection and facilitate Departmental response in an emergency situation.

Environmental Impact Assessment (EIA) Process
To provide a list of projects subject to mandatory EIAs, list exemptions, outline procedures and mechanisms to implement the EIA process and to link the EIA process to approvals.

Certificate of Competence
A schedule of activities requiring a certificate, application and renewal procedures and terms of a certificate.

YOUR NOTES

PART III
Contaminant Releases

Part III sets out the ways in which the government will endeavour to prevent and control contaminant releases into the environment.

Existing broad prohibitions on contaminant releases into the environment are included in the proposed legislation, as is an enhanced provision allowing environmental protection orders to be issued to remedy anticipated or adverse effects of contaminant releases. Detailed requirements will be specified in the regulations.

YOUR NOTES

REGULATORY FRAMEWORK

Existing Regulations

Clean Air Act
- Clean Air Regulations
- Clean Air (Maximum Levels) Regulations
- Clean Air (General) Regulations

Clean Water Act
- Clean Water (General) Regulations
- Clean Water (Industrial Plants) Regulations
- Clean Water (Municipal Plants) Regulations
- Thermal Electric Power Plant Delegation Regulation
- Natural Gas Processing Plant Delegation Regulation

New and Enhanced Regulatory Areas

Approvals for Contaminant Release

To define the approval required for activities resulting in a contaminant release; to identify approval activities which may be exempted from public notification; and to list specific activities, such as lake restoration involving water quality manipulations using chemical, physical or biological techniques, which are new subjects for approval.

Clean Air (Maximum Levels) Regulation
To update the Clean Air (Maximum Levels) Regulation ambient standards currently under Part 1, will become the subject of guidelines. Part 3 and 3.1 dealing with particulate emissions from stationary sources and gaseous emissions from vinyl chloride and polyvinyl chloride plants will be updated and enhanced.

Regulatory Offences
To enhance the current list of regulatory offences. Regulatory offences will include: visible emissions contraventions, burning without an approval, non-compliance with requirements for filing of returns and reports.

YOUR NOTES

PART IV
Conservation and Reclamation

YOUR NOTES

Part IV of the proposed legislation is designed to ensure that land used for industrial purposes is maintained in an environmentally sound condition. It requires operators of industrial activities to undertake land conservation and reclamation measures.

The proposed legislation retains the existing requirement for security deposits paid to the Conservation and Reclamation Security Fund. The provisions dealing with the applicability of land reclamation measures, decommissioning and conservation activities, and operators' responsibilities for reclamation work have all been continued and enhanced. Consistent with the polluters pay principle, a new provision will require operators to bear responsibility for reclamation work for 25 years after completion of their projects. Liability would only apply if the operator failed to use reclamation technology available at the time.

REGULATORY FRAMEWORK

Existing Regulations

Land Surface Conservation and Reclamation Act
- Sand, Gravel, Clay and Marl Surface Operations Regulation
- Regulated Oil Sands Surface Operations Regulation
- Regulated Oil and Gas Pipeline Surface Operators Regulations
- Regulated Coal Surface Operation Regulations
- Land Conservation Regulations
- Security Deposit Ministerial Regulations
- Counsel's Administrative Transfer Regulations
- Inquiry Procedure Regulations

Portions of the Land Surface Conservation and Reclamation Act considered for regulation; Sections 15(3) through to (10); Section 16; Section 36(2); Section 42(1) Paragraphs (a) to (d), (2) and (4).

New and Enhanced Regulatory Areas

Designation of Regulated Surface Operations
To enhance the list of activities designated as regulated surface operations requiring an approval to include quarries and individual plant sites, major water and sewer lines, and major power transmission lines.

Decommissioning
To define the requirements for decommissioning activities and sites such as industrial plants, and to require security deposits.

Security Deposits - Conservation and Reclamation Security Fund
To set out the basis for collecting security deposits, and expand the instruments that can be used to provide security for deposit.

YOUR NOTES

PART V
Water Well Drillers

Part V is designed to protect and conserve ground water by ensuring the competence of water well driller contractors and establishing standards for their activities. The regulations will prescribe the requirements for record-keeping, reporting, sampling, testing and decomissioning of wells. Part V also establishes a structure for the future incorporation of the Water Resources Act.

REGULATORY FRAMEWORK

Existing Regulations

Ground Water Development Act
- General Regulation Forms
- Water Well Drilling and Construction Regulation
- Ministerial Order Amending Forms

Sections of the Ground Water Development Act to be considered for incorporation in the regulations; Section 5, Section 4(2).

New and Enhanced Regulatory Areas

Approvals
To set out classes of approvals for various types of wells.

Records and Reports
To ensure proper reporting of well data and that records kept by operators can substantiate reporting information.

Forms
To specify and enhance the format of reports - Water Well Drilling Report.

Decommissioning
To define the well owner's responsibilities and appropriate materials and methods to be used in decommissioning wells.

YOUR NOTES

PART VI
Drinking Water

Part VI includes provisions to protect the quality of drinking water in water distribution systems, municipal water treatment plants and storage facilities. It also prohibits contamination of potable water supplies and enables the incorporation of water quality standards, such as the Canadian Drinking Water Quality Guidelines, into regulations. It also requires modification or the installation of additional equipment necessary to sustain the quality of drinking water.

REGULATORY FRAMEWORK

Existing Regulations
Clean Water Act
- Clean Water (Municipal Plants) Regulations, Parts 6, 7 and 8
- Fluoridation Regulations

YOUR NOTES

PART VII
Waste Minimization and Recycling

Part VII of the proposed legislation is designed to ensure that waste minimization and recycling measures are considered, encouraged and implemented when possible. Part VII also allows for incentives to assist in this implementation.

The proposed legislation enhances existing provisions dealing with approval to recycle designated materials; incentives to encourage waste minimization and recycling; and collection of deposits and fees.

A new provision of the proposed legislation is designed to promote and pursue waste reduction by requiring that all applications for approval under the Act show measures to minimize waste. Any approvals granted may include waste reduction terms or conditions.

YOUR NOTES

REGULATORY FRAMEWORK

Existing Regulations

Beverage Container Act

Beverage Container Regulations

Sections of the Beverage Container Act to be considered for regulation; Sections 3, 4, 5, 6, 18 and 19.

New and Enhanced Regulatory Areas

Schedule of Designated Materials

To list designated materials for recycling. Currently includes only beverage containers.

Beverage Container Regulations
To consolidate and streamline The Beverage Container Act and Regulations.

Recycling Schemes/Waste Minimization
To establish and define specific recycling/waste minimization mechanisms for designated materials such as surcharges for deposit into recycle funds; provision of incentive grants; approval of recycle depots or facilities.

Recycling Funds
To establish administration and operation terms for recycling funds for recycling programs.

Approvals
To require all applicants for approvals to provide information on waste minimization.

YOUR NOTES

PART VIII
Waste Management

Part VIII regulates disposal of litter and hazardous waste disposal facilities in order to protect the human and environmental health of Albertans.

The existing legislative provisions governing disposal of hazardous waste, and the existing provisions governing the control of litter are retained in the proposed legislation. Municipal waste facility management will continue to be a local authority responsibility under the Public Health Act.

YOUR NOTES

REGULATORY FRAMEWORK

Existing Regulations

Hazardous Chemicals Act
- Hazardous Waste Regulations

Litter Act
- Litter Control Regulations

Clean Water Act
- Industrial Plants Regulations
- Clean Water (General) Regulations

Clean Air Act
- Clean Air (General) Regulations

Sections of Act to be considered for regulations; Hazardous Chemicals Act, Section 13(1); Litter Control Act, Forms B and C, Section 8; Agricultural Chemicals Act, Section 10.

PART IX
Hazardous Substances and Pesticides

Part IX of the proposed legislation outlines measures to control and regulate the use, handling and disposal of hazardous substances and pesticides, to ensure that such substances are used in an environmentally safe manner. As well, to enable effective control and regulation, it ensures collection of a broad range of information on hazardous substances.

Existing provisions regarding the use, sale and application of pesticides, as well as approvals and requirements for certificates of competence for users have been retained in the proposed legislation.

Provisions dealing with environmental protection orders for control of hazardous substances where there may be an adverse effect on the environment are retained.

Two new provisions of the proposed legislation outline procedures for gathering information for assessment of hazardous substances and require that persons in authority retain the responsibility for keeping, storing, selling, applying and transporting pesticides.

REGULATORY FRAMEWORK

Existing Regulations

Agricultural Chemicals Act

Pesticide Applicator Licensing Regulation

Pesticide Sales, Use and Handling Regulation

Section of Agricultural Chemicals Act to be considered for regulation; Section 12.

YOUR NOTES

New and Enhanced Regulatory Areas

Approvals
To require approvals for businesses involved in pesticide application and the sale of pesticides; to improve existing application procedures and forms; to consolidate some existing classes of approval; and to exempt certain applications such as hose-end sprayers used by homeowners.

Pesticide Schedules
To update and consolidate existing schedules of pesticides subject to provisions of the Act.

Chemical Trespass
To make it an offence for anyone to allow a pesticide to contaminate any property or thing other than the proposed application site.

Pesticide Container Disposal
To amend an existing regulation to require pesticide manufacturers to collect pesticide containers for recycling or proper disposal.

Hazardous Substances
To specify information required for assessments of hazardous substances.

YOUR NOTES

PART X
Unlawful, Unauthorized and Accidental Releases

YOUR NOTES

Part X of the proposed legislation ensures that unlawful, unauthorized or accidental releases of contaminants, hazardous substances or pesticides are remedied quickly in order to protect human health and the environment.

The proposed legislation retains existing legislative provisions empowering government to take emergency measures in cases of releases and ensuring that necessary action is taken in cases of non-compliance with environmental protection orders.

The proposed legislation includes enhanced provisions for release reporting, responsibility for remedial action, and expands the definition of the person responsible for the released substance to include principals, owners, agents, receivers, managers and trustees.

REGULATORY FRAMEWORK

Existing Regulations
Agricultural Chemicals Act, Section 1(1)
Clean Air Act
  Clean Air (General) Regulations, Section 12
Clean Water Act
  Clean Water (General) Regulations, Section 9
Hazardous Chemicals Act, Section 7.1(1)

New and Enhanced Regulatory Areas

Reporting by Party Responsible
To outline the specific reporting requirements of a party responsible for the unlawful, unauthorized or accidental release, and to specify substances, based on quantity, that will be exempted from the reporting requirement.

Recovery of Costs for Emergency and Non-Emergency Response
To itemize the type of costs that will be claimed from the responsible party by Alberta Environment for any Department emergency response and when orders are not complied with.

Public Notification of Licence Contraventions
To outline the method to be used by industry and municipalities to notify the public where there has been a licence contravention which may adversely affect public health.

Environmental Protection Order
To define the form and content of environmental protection orders.

YOUR NOTES

PART XI
Enforcement

Part XI sets out timely and effective applications of a wide range of administrative and judicial measures to ensure compliance with the Act.

The proposed legislation has enhanced provisions dealing with the powers of investigators, court orders for investigations, enforcement orders, enforcement options, penalties and liability of officers and directors of offending corporations. Part XI provides a hierarchy of penalties up to a maximum of $1,000,000 and six months in jail for the most severe offences.

New enforcement provisions incorporate recommendations in "The Action Plan for Environmental Law Enforcement" by providing a greater range of options for punitive and remedial action upon conviction. These include additional fines offsetting any monetary benefits accrued from an offence and the treatment of each day of contravention as a separate offence.

YOUR NOTES

REGULATORY FRAMEWORK

New and Enhanced Regulatory Areas

Regulatory Offences
To create regulatory offences and penalties where appropriate and where not covered by general offence provisions in the Act.

DEFINITIONS

The proposed Alberta Environmental Protection and Enhancement legislation includes a number of definitions which have been strengthened and expanded to reflect the comprehensive scope of the proposed legislation.

Environment: The components of the Earth and includes (i) air, land and water, (ii) all layers of the atmosphere, (iii) all organic and inorganic matter and living organisms, and (iv) the interacting natural systems that include components referred to in paragraphs (i) to (iii).

Contaminant: Any substance or form of energy, including but not limited to an odour, sound, vibration, heat, radiation or a combination of them resulting directly or indirectly from the activities of man that may cause an adverse effect.

Hazardous Waste: Waste which, due to its properties and quantity (i) causes or may cause an adverse effect, (ii) which requires special disposal techniques to minimize the detrimental effect, and (iii) is included in one of the classifications specified in the regulations.

Person Responsible: When used with reference to a hazardous substance or thing containing a hazardous substance, means (i) its owner, (ii) every person who has or who has had charge, management or control of it, (iii) every person who has or has had charge, management or control of handling, storage, use, disposal, transportation or display of it, including any person whether as a principal or agent who acts as the agent, receiver, manager or trustee of the person responsible.

YOUR NOTES

Substance: Any distinguishable kind of organic or inorganic matter, whether animate or inanimate, and includes, but is not limited to any matter (i) capable of becoming dispersed in the environment, or (ii) capable of becoming transformed in the environment into matter described in subclause (i).

Additional copies of this discussion paper are available by contacting:

Alberta Environment Publications Centre
14th Floor, Oxbridge Place
9820 - 106 Street
Edmonton, Alberta
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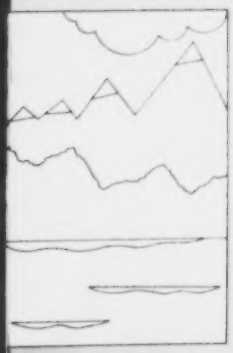
YOUR NOTES

APPENDIX "A"

DISCUSSION DRAFT OF THE PROPOSED ALBERTA ENVIRONMENTAL PROTECTION AND ENHANCEMENT LEGISLATION

For Public Discussion and Response



Alberta
ENVIRONMENT

DISCUSSION DRAFT OF PROPOSED ENVIRONMENTAL PROTECTION AND ENHANCEMENT LEGISLATION

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

Definitions

1 In this Act,

(a) "activity" means activity as defined in the regulations;

(b) "adverse effect" means adverse effect as defined in the regulations;

(c) "analyst" means an analyst designated by the Minister under section 35;

(d) "animal" means any animal other than man;

(e) "apply" includes to deposit, add, emit or discharge or cause or permit the depositing, adding, emission or discharging;

(f) "approval" means an approval issued under this Act in respect of an activity or the use of a thing, and includes the renewal of an approval;

(g) "certificate of competence" means a certificate of competence issued under this Act;

(h) "class of substances" means any 2 or more substances

(i) that contain the same portion of chemical structure,

(ii) that have similar physio-chemical or toxicological properties, or

(iii) that have similar types of uses;

(i) "Conservation and Reclamation Security Fund" means the Fund continued under section 96;

(j) "contaminant" means any substance or form of energy, or any combination thereof, that results directly or indirectly from the activities of man and that may cause an adverse effect, and includes odours, sounds, vibration, heat and radiation;

(k) "Co-ordinating Council" means the Sustainable Development Co-ordinating Council continued under section 5;

(l) "Department" means the Department of the Environment;

(m) "designated material" means a commercial product specified in the regulations under Part 7 as a designated material;

(n) "Director" means a person designated as a Director by the Minister for the purposes of this Act and the regulations;

(o) "dispose" means to discharge, dump, throw, drop, discard, abandon, spill, leak, pump, pour, emit or empty, or any combination of them, whether intentional or accidental;

(p) "environment" means the components of the earth and includes

(i) air, land and water,

(ii) all layers of the atmosphere,

(iii) all organic and inorganic matter and living organisms, and

(iv) the interacting natural systems that include components referred to in subclauses (i) to (iii);

(q) "government agency" means

(i) a corporation that is an agent of the Crown in right of Alberta, or

(ii) a corporation, commission, board or other body empowered to exercise quasi-judicial or governmental functions and whose members are appointed by an Act of the Legislature, the Lieutenant Governor in Council or a Minister of the Crown, or any combination of them;

(r) "hazardous substance" means any substance, class of substances or mixture of substances that is entering or is capable of entering the environment in a quantity or concentration or under conditions that may constitute an immediate or long-term adverse effect, and includes a substance or thing containing a hazardous substance, but does not include a pesticide;

(s) "hazardous waste" means hazardous waste within the meaning of that term in the regulations;

(t) "highway" means highway within the meaning of that term in the *Highway Traffic Act;*

(u) "inspector" means an inspector designated or appointed as such under this Act by the Minister or a local authority;

(v) "investigator" means an investigator designated as such under this Act by the Minister or a local authority;

(w) "local authority" means

(i) the corporation of a city, town, village, summer village, county or municipal district,

(ii) the board of administrators of a new town, or

(iii) in the case of an improvement district or special area, the Minister of Municipal Affairs;

(x) "mine" means a mine within the meaning of the *Coal Conservation Act;*

(y) "Minister" means the Minister of the Environment;

(z) "municipality" means a city, town, new town, village, summer village, municipal district, county, improvement district or special area;

(aa) "open body of water" means the bed and shore of a river, stream, watercourse, lake or other body of water, including an irrigation canal owned by the board of directors of an irrigation district, whether it contains water continuously or intermittently, but does not include

(i) a municipal reservoir,

(ii) a reservoir or dugout on private land, or

(iii) a lake or slough that

(A) has an area of less than 10 acres,

(B) is completely surrounded by private land, and

(C) does not drain through private land;

(bb) "owner" with regard to land means

(i) a person registered in a land titles office as the owner of an estate in fee simple or a life estate in land,

(ii) a purchaser of land whose interest as a purchaser is shown on the certificate of title to that land, or

(iii) a tenant or other person who is in lawful possession or occupation of land;

(cc) "person" includes a government agency;

(dd) "person responsible", when used with reference to a hazardous substance, pesticide or contaminant or a substance or thing containing a hazardous substance, pesticide or contaminant, means

(i) its owner and a successor, assignee, executor or administrator of the owner,

(ii) every person who has or has had charge, management or control of it, and

(iii) every person who has or has had charge, management or control of the handling, storage, use, disposal, transportation or display of it,

and includes any person who acts as the agent of a person referred to in subclause (i), (ii) or (iii);

(ee) "pest" means any injurious, noxious or troublesome plant or animal life and includes any injurious, noxious or troublesome organic function of a plant or animal;

(ff) "pesticide" means

(i) a substance intended, sold or represented for use in preventing, destroying, repelling or mitigating any insect, nematode, rodent, predatory animal, bacteria, fungus, weed or other form of plant or animal life or virus, except a virus, bacteria or fungus in living man or animals,

(ii) any substance intended for use as a pest control product under the *Pest Control Products Act* (Canada), and

(iii) any substance which is a plant growth regulator, a defoliant or a plant desiccant;

(gg) "pipeline" means

(i) a pipe for the transmission of any substance, and installations in connection with that pipe, or

(ii) a sewer or sewage system and installations in connection with that sewer or sewage system;

(hh) "pit" means a pit or excavation in the ground made for the purpose of removing, opening up or proving any sand, gravel, clay, marl, peat or other substance, but does not include a mine or quarry;

(ii) "potable water" means water that is supplied by a waterworks system and is used for drinking, cooking, bathing, dish washing or other domestic purposes;

(jj) "quarry" means a pit or excavation in the ground made for the purpose of removing, opening up or proving any mineral other than coal;

(kk) "reclamation" or "reclaim" includes any or all of the following:

(i) to remove equipment or buildings or other structures and appurtenances;

(ii) to conduct investigations to determine the presence of contaminants;

(iii) to decontaminate buildings or other structures and other appurtenances, or land or water;

(iv) to stablize, contour, conserve, maintain, condition or reclaim the surface of land;

(ll) "recyclable material" means a hazardous substance or pesticide that is being recycled;

(mm) "recycle" means to do anything that results in providing a use for a thing which otherwise would be disposed of or treated as waste, including collecting, transporting, handling, storing, sorting, separating and processing the thing, but does not include the application of waste to land or the use of a thermal destruction process;

(nn) "release" includes to spill, discharge, spray, inject, inoculate, abandon, deposit, leak, seep, pour, emit, empty, throw, dump, place and exhaust;

(oo) "registered owner", with respect to land, means the person registered in a land titles office as the owner of the fee simple or a life estate in the land;

(pp) "storage", with reference to hazardous waste, means the holding of a hazardous waste for a temporary period at the end of which it is

(i) transported,

(ii) treated, or

(iii) disposed of;

(qq) "substance" means any distinguishable kind of organic or inorganic matter whether animate or inanimate and includes any matter

(i) capable of becoming dispersed in the environment, or

(ii) capable of becoming transformed in the environment into matter described in subclause (i);

(rr) "telecommunication line" means a system or arrangement of lines of wire or other conductors by which telephone or other kinds of communications are transmitted and received by electronic means;

(ss) "transmission line" means a system or arrangement of lines of wire or other conductors and transformation equipment by which electric energy is transmitted, and includes installations in connection with that system, arrangement or equipment but does not include a power plant or electric distribution system as defined in the *Hydro and Electric Energy Act;*

(tt) "treatment", with reference to hazardous waste, means any operation for the treatment, recycling or salvaging of the hazardous waste so that it no longer constitutes an adverse effect;

(uu) "vehicle" means a device in or by which a person or thing may be transported or drawn on a highway;

(vv) "waste" means, subject to the regulations, refuse, garbage and any other substance or material that is being or is intended to be disposed of and includes industrial and hazardous waste;

(ww) "waste management facility" means a facility for the collection, storage, treatment or disposal of waste.

(xx) "water" means all water on or under the surface of the land;

(yy) "watercourse" means

(i) the bed and shore of a river, stream, lake, creek, lagoon, swamp, marsh or other natural body of water, or

(ii) a canal, ditch, reservoir or other man-made surface feature,

whether it contains or conveys water continuously or intermittently;

(zz) "waterworks system" means any system providing potable water to a municipality or municipal development and includes

(i) wells, surface water intakes or infiltration galleries which constitute the water supply,

(ii) water supply lines,

(iii) on-stream or off-stream water storage facilities,

(iv) water pumphouses,

(v) municipal water treatment plants,

(vi) potable water transmission mains,

(vii) potable water storage facilities,

(viii) potable water pumping facilities, and

(ix) watermains and related pumphouses and pressure reducing stations of the municipal water distribution system;

(aaa) "well" means, except in Parts 5 and 6, any well, whether or not a licence is required in respect of it under the *Oil and Gas Conservation Act*.

Matters to be considered

2 A court and all persons who exercise any authority or make any decision under this Act that relates to or affects the environment shall exercise that authority or make that decision in the best interests of the environment and in doing so shall consider the following as well as any other relevant matter:

(a) the protection of the environment is essential to the well-being of society and should be supported and encouraged;

(b) the protection, enhancement and wise use of the environment for the present and the future should be a prime consideration;

(c) the principle of sustainable development should be applied wherever possible to allow the development of Alberta's economy in an environmentally responsible manner and to integrate environmental protection into economic decisions at the earliest stages of planning;

(d) the protection and enhancement of the environment is a shared responsibility of all Albertans and the participation of Albertans in the protection and enhancement of the environment should be encouraged;

(e) the interrelated factors associated with the environment should be recognized in all areas of regulation, protection and enhancement of the environment;

(f) effective environmental regulation and protection should take place in a co-operative fashion among the various sectors of society and government;

(g) regulation, protection and enhancement of the environment should take place in an open atmosphere with full information made available to all parties concerned;

(h) conservation measures and waste minimization, reduction and recycling measures should be encouraged as an important part of environmental protection and enhancement;

(i) all undertakings and things that may affect the environment should be regulated in a manner that minimizes adverse effects on the environment;

(j) persons should be held responsible for the environmental consequences of their actions.

Crown is bound

3 Except where this Act specifically provides to the contrary, the Crown is bound by this Act.

Application

4 Except where this Act or the regulations specifically provide to the contrary, this Act and the regulations apply to all land in Alberta.

PART 1

ADMINISTRATION

Consultation, Communication and Education

Sustainable Development Co-ordinating Council

5 The Natural Resources Co-ordinating Council is continued as the Sustainable Development Co-ordinating Council.

Purpose of the Co-ordinating Council

6(1) The Co-ordinating Council is responsible for co-ordinating, reviewing and making recommendations to the Minister on inter-departmental matters related to sustainable development and environmental protection and enhancement.

(2) The Co-ordinating Council may

(a) inquire into any matter pertaining to the environment, and

(b) review any policies, programs, services or administrative procedures of the Government or of government agencies with regard to matters pertaining to the environment,

and shall make its recommendations and reports to the Minister, who shall immediately submit copies to the members of the Executive Council.

Members Co-ordinating Council

7(1) The Co-ordinating Council shall consist of

(a) a Deputy Minister of the following departments of the Government, as designated by the Minister of each of those Departments:

(i) Environment;

(ii) Agriculture;

(iii) Health;

(iv) Family and Social Services;

(v) Recreation and Parks;

(vi) Municipal Affairs;

(vii) Transportation and Utilities;

(viii) Economic Development and Trade;

(ix) Energy;

(x) Forestry, Lands and Wildlife;

(c) the chairman of the Energy Resources Conservation Board;

(d) the chairman of the Natural Resources Conservation Board;

(e) representatives from other government agencies and departments who are designated by the Lieutenant Governor in Council.

(2) The Deputy Minister of the Department of the Environment is the Chairman of the Co-ordinating Council.

(3) Notwithstanding subsection (1), each member of the Co-ordinating Council may appoint in writing a person to be an alternate member of the Co-ordinating Council to act in his stead as a member of the Co-ordinating Council in the event of his temporary absence or his temporary inability to act.

Rules of operation

8 The members of the Co-ordinating Council

(a) may appoint a vice-chairman and a secretary, and

(b) may make rules governing the calling and conduct of meetings of the Council and any other matters pertaining to the conduct of its business and affairs.

Quorum

9 A majority of the members of the Co-ordinating Council or their respective alternate members constitutes a quorum.

Advisory committees, experts

10(1) The Minister may

(a) establish advisory committees and retain experts to report to the Minister with respect to

(i) the content and administration of this Act, and

(ii) any of the policies, programs, services or other matters under the Minister's administration,

and

(b) specify the functions that the committees and experts are to perform, and the manner and time period in which those functions are to be performed.

(2) The report of a committee established or an expert retained pursuant to subsection (1), including the recommendations and reasons for them, shall be made public in the manner provided in the regulations.

Regulations

11 The Minister may make regulations

(a) providing for the manner in which reports of advisory committees and experts are made public;

(b) authorizing and providing for the payment of remuneration and expenses to members of advisory committees and to experts;

(c) providing for any other matter considered necessary to carry out the purposes of advisory committees and experts.

Referral committees

12(1) The Minister may establish one or more committees consisting of employees of the Government or government agencies to review any or all of the following through a referral process:

(a) a proposal or plan by the Government or any government agency that in the opinion of the Minister may result in an adverse effect;

(b) an application by

(i) the Government,

(ii) the Government of Canada or any department or agency of that Government, or

(iii) any person

for an approval, certificate, consent or other document under this Act where, in the opinion of the Minister, the matter to which the application relates may result in an adverse effect;

(c) a proposal for the disposition by the Government of any interest in real property.

(2) A committee established under subsection (1) may make rules governing its conduct, procedures and meetings.

(3) A committee established under subsection (1) shall make and submit a report to the Minister containing recommendations on the merits of the proposal, plan or application reviewed and identifying specific requirements that should be considered by the Government in dealing with the proposal, plan or application.

Powers and duties of Minister

13 The Minister

(a) is responsible for the co-ordination of the policies, programs, services and administrative procedures of departments of the Government and of government agencies in matters pertaining to the environment;

(b) may, as the representative of the Government, maintain a continuing liaison with the Government of Canada and agencies of that Government, the governments of other provinces and agencies of those governments, and municipal corporations in Alberta, in relation to matters under the administration of the Minister;

(c) shall compile, study and assess information directly or indirectly related to matters pertaining to the environment with a view to using the results of the study and assessment for the purpose of better carrying out his functions and responsibilities under this or any other Act and with a view to providing that information, or the results of the study and assessment, to departments of the Government and to government agencies, and to the public by way of publications, films, radio or television broadcasts or otherwise;

(d) may carry out or participate in research projects related to matters pertaining to the environment;

(e) shall conduct a continuing review of research related to any matter pertaining to the environment being carried out by the Government or government agencies or by others and shall promote the co-ordination of that research and of facilities used for that research;

(f) shall maintain a library consisting of publications and other information relating to matters pertaining to the environment;

(g) may develop, publish or distribute or arrange for the development, publication or distribution of pertinent information to inform the public in respect of all aspects of the quality of the environment.

(h) may conduct economic analyses to determine the benefits and costs of proposed major alterations of the environment, resource use fees, pollution control levies, insurance against major pollution catastrophes, and methods of financing major resource development and pollution control projects;

(i) may examine and investigate methods of raising funds for major public installations or programs directly associated with the regulation and control of pollution, watershed management, reclamation and environmental protection and enhancement;

(j) may generally do any acts he considers necessary to promote the enhancement of the environment for the benefit of the people of Alberta and future generations.

Development of objectives and guidelines

14(1) For the purpose of carrying out the Minister's functions and duties related to the quality of the environment, the Minister shall develop

(a) environmental quality objectives specifying goals or purposes toward which the Government's environmental control effort is directed, including goals or purposes stated in quantitative or qualitative terms,

(b) environmental quality guidelines specifying recommendations in quantitative or qualitative terms to support and maintain particular uses of the environment,

(c) release guidelines as to limits, including limits expressed as concentrations or quantities, for the release of substances into the environment from works, undertakings or activities,

(d) environmental guidelines specifying procedures, practices or release limits for environmental control relating to works, undertakings and activities during any phase of their development and operation, including the location, design, construction, start-up, closure, dismantling and clean-up phases and any subsequent monitoring activities, and

(e) monitoring methods.

(2) The Lieutenant Governor in Council may make regulations respecting the manner of receiving public input into the development of objectives and guidelines referred to in subsection (1) and the manner of publishing the guidelines.

Annual report

15 The Minister shall publish an annual report on the state of the Alberta environment.

Boards of Review

Notice of objection

16(1) A notice of objection may be submitted to the Minister by the following persons in the following circumstances:

(a) where the Director publishes a notice under section 63(1)(d), any person who is directly affected by the decision to which the notice relates may submit the notice of objection;

(b) where the Director gives a notice under section 63(1)(e), the approval holder and any person who previously submitted a statement of concern in respect of the decision to which the notice relates may submit the notice of objection;

(c) where an approval is cancelled or suspended under section 66(1) or 184(1)(a) the approval holder may submit the notice of objection;

(d) where a certificate of competence is cancelled or suspended under section 184(1)(b), the holder of the certificate of competence may submit the notice of objection;

(e) where an environmental protection order regarding reclamation is issued under section 88, the person to whom it was directed may submit the notice of objection;

(f) where a reclamation certificate is issued under section 84(2) any person who receives a copy of the certificate under section 94(b) may submit the notice of objection;

(g) where an enforcement order concerning litter is issued under section 186, the person to whom the order is directed may submit the notice of objection.

(2) A notice of objection must be submitted to the Minister not later than 30 days after

(a) the last publication of the notice, in a case referred to in subsection (1)(a),

(b) receipt of the notice, in a case referred to in subsection (1)(b),

(c) receipt of notice of the cancellation or suspension or the issuance of the order, as the case may be, in a case referred to in subsection (1)(c), (d), (e) or (g), or

(d) receipt of a copy of the reclamation certificate, in a case referred to in subsection (1)(f).

(3) A notice of objection must contain the information and be made in the manner provided for in the regulations.

Referral to board of review

17 Where the Minister receives a notice of objection in accordance with section 16 he shall refer it to a board of review established in accordance with the regulations to deal with the matter.

Powers and duties of board

18(1) For the purposes of carrying out a review under this Act, a board of review has all the powers of a commissioner under the *Public Inquiries Act*.

(2) A board of review may dismiss a notice of objection that it considers to be frivolous or vexatious.

(3) A board of review shall discontinue its proceedings in respect of a notice of objection if the notice of objection is withdrawn.

(4) A board of review shall, consistent with the principles of natural justice, give to persons who the board considers have a sufficient interest in the matter before it, the opportunity to make representations on the matter.

(5) Subject to the regulations, a board of review may establish its own rules and procedures for dealing with matters before it.

Costs

19 A board of review may award costs of and incidental to any proceedings before it on a final or interim basis and may, in accordance with the regulations, direct by whom and to whom any costs are to be paid.

Stay pending review

20 A notice of objection operates as a stay and suspends the operation of the decision objected to unless the Minister otherwise orders.

Report to Minister

21 Within 60 days after the expiry of the appeal period in section 16(2), or within any extension of that period granted by the Minister, a board of review shall submit a report to the Minister, together with its recommendations and the evidence that was presented to it.

Decision by Minister

22(1) On receiving the report and recommendations of a board of review the Minister shall make one of the following orders:

(a) in a case referred to in section 16(1)(a), an order confirming the decision objected to, amending the decision in any manner that he considers appropriate or reversing the decision;

(b) in a case referred to in section 16(1)(b), an order confirming the decision objected to or amending the decision in any manner that he considers appropriate;

(c) in a case referred to in section 16(1)(c) or (d) an order confirming or reversing the decision objected to;

(d) in a case referred to in section 16(1)(e), (f) or (g) an order confirming the decision objected to, amending the decision in any manner that he considers appropriate or reversing the decision.

(2) The Minister shall immediately give notice of any order he makes under this section to all persons who submitted notices of objection.

(3) Where the Minister makes an order under subsection (1), he shall immediately give a copy of the order to the Director, inspector or investigator whose decision was objected to and that person shall alter his decision accordingly.

Publication of board's report

23 After he has complied with section 22, the Minister shall publish the board of review's report and recommendations or a summary of them in the manner he considers appropriate.

Regulations

24 The Minister may make regulations

(a) governing the appointment of members of a board of review;

(b) respecting proceedings before boards of review;

(c) for the conduct of hearings, including the presentation of evidence, the making of representations and the length of hearings;

(d) fixing the remuneration and travel and living expenses of board of review members;

(e) prescribing the criteria to be considered by boards of review in directing interim or final costs to be paid;

(f) generally, for regulating the conduct and work of boards of review.

Environmental Protection Orders

General requirements of e.p.o.

25 In addition to any other requirements that may be included in an environmental protection order issued under this Act, such an order may contain provisions

(a) requiring the person to whom it is directed

(i) to maintain records on any relevant matter,

(ii) to report periodically to the Director, and

(iii) to take any other measure that the person making the order considers necessary to

(A) facilitate compliance with the order, or

(B) protect or restore the environment,

(b) fixing the manner or method of, or the procedures to be used in, carrying out the measures required by the order, and

(c) fixing the time within which any measure required by the order is to be commenced and the time within which the order or any portion of the order is to be complied with.

Amendment and cancellation of e.p.o.

26(1) The Director may

(a) amend a term or condition in an environmental protection order or add a term or condition to or delete a term or condition from an environmental protection order,

(b) cancel an environmental protection order, or

(c) amend a clerical error in an environmental protection order.

(2) The Director may exercise his powers under subsection (1) notwithstanding that the original environmental protection order was issued by an inspector or investigator.

(3) A copy of an environmental protection order made under subsection (1) must be served on the same person to whom the original order was issued.

Failure to comply with e.p.o.

27(1) If the person to whom an environmental protection order is directed fails to comply with the order, the Director may take whatever action he considers necessary to effect compliance with the environmental protection order.

(2) Costs incurred by the Director under this section

(a) may be paid out of the Conservation and Reclamation Security Fund where this Act or the regulations so provide, and

(b) are recoverable by the Minister

(i) in an action in debt against the person to whom the environmental protection order was directed, or

(ii) by ordering any purchaser of land from the person to whom the environmental protection order was directed to pay to the Minister instead of to the vendor an amount not exceeding the amount owing in respect of the costs,

(3) For the purposes of this section the costs referred to in subsection (2) include, without limitation, any costs incurred in investigating and responding to any matter to which an environmental protection order relates or to a violation of an environmental protection order.

(4) Where a purchaser pays an amount to the Minister under subsection (2)(b)(ii) he is discharged from his obligation to pay that amount to the vendor.

(5) If a local authority fails to pay costs owing under this section the Crown may deduct an amount equal to the amount of costs owing from any grant or other sum of money payable by the Crown to the local authority under any enactment.

No right to compensation

28 Subject to any regulations under section 213(a), a person to whom an environmental protection order is directed is not entitled to compensation from the Crown for any loss resulting from or attributable to the issuing of the order.

General Administrative Matters

Administration of Act

29 Except as otherwise provided in this Act, the Minister is charged with the administration of this Act.

Delegation

30(1) The Minister may in writing delegate to any employee of the Government, of a government agency or of a local authority any power or duty conferred or imposed on him under this Act or the regulations under this Act.

(2) Subsection (1) does not apply to the power or duty to make regulations.

Transfer of administration

31(1) The Minister may by agreement in writing or by regulation transfer the administration of a provision of this Act or the regulations to

(a) another Minister of the Government,

(b) a government agency, or

(c) a local authority

and may specify the terms and conditions under which and subject to which the transfer is made.

(2) Where the administration of a provision of this Act or the regulations has been transferred under subsection (1) and in the Minister's opinion the other Minister, the government agency or the local authority is not properly administering the provision, the Minister may, after serving written notice on the other Minister, the government agency or the local authority, cause inspectors or investigators appointed by the Minister to carry out the provision.

(3) The expenses incurred by the Government when an inspector or investigator appointed under subsection (2) carries out a provision of this Act or the regulations in a municipality

(a) shall be paid by the local authority of the municipality to the Minister on demand,

(b) are recoverable by the Minister as if they were a debt due to the Crown, and

(c) may be recovered by the Crown by deducting and withholding from any grant or other sum of money that would otherwise have been due or payable by the Crown to the local authority an amount equal to the amount of the expenses incurred.

Agreements

32 The Minister may on behalf of the Government enter into agreements relating to any matter pertaining to the environment with

(a) the Government of Canada,

(b) the government of another province,

(c) a government outside of Canada,

(d) a municipal corporation,

(e) an agency of a government or body referred to in clauses (a) to (d), or

(f) any other person.

Emergency response plan

33 The Minister may, in co-operation with representatives of other departments of the Government, with government agencies and with other persons, formulate plans for effective co-ordinated action in cases of emergency to prevent, alleviate, control or stop the destruction of, loss of or damage to the environment.

Agreements with land owners

34(1) In order to protect and enhance the environment, the Minister may enter into an agreement with the registered owner of land to restrict the purposes for which that land may be used by that owner and his successors in title.

(2) An agreement made under subsection (1) may provide for the payment of compensation by the Government or by the owner of the land.

(3) An agreement under this section may be registered under the *Land Titles Act*.

(4) On the expiration or termination of an agreement registered under the *Land Titles Act* pursuant to subsection (3), the Registrar of Land Titles shall, on being directed to do so by the Minister, cancel the registration of the agreement.

Designation of officials

35(1) The Minister may by order designate as inspectors, investigators or analysts for the purposes of this Act

(a) any person who in the opinion of the Minister is qualified to be so designated, and

(b) any person employed by

(i) any department of the Government,

(ii) a local authority, or

(iii) the Government of Canada

in the administration of a law respecting the protection or enhancement of the environment, with the approval of the department of the Government, the local authority or the Government of Canada.

(2) An inspector and an investigator shall be furnished with a certificate of designation by the Minister and on entering any place shall produce the certificate to any person requesting proof of identity and explain the nature of the duties he wishes to carry out.

(3) A designation may direct that the authority of the inspector, investigator or analyst be exercised subject to any terms and conditions that the Minister prescribes in the designation.

Powers of inspector

36 For the purposes of carrying out powers and duties conferred or imposed on him pursuant to this Act an inspector has all the powers and is subject to all the duties of an investigator under section 168(1)(a) to (e), (f)(ii), (h) and (i) and section 168(2)(d).

Municipal inspectors

37(1) Each local authority shall appoint a sufficient number of inspectors and investigators to carry out the administration of provisions of this Act or the regulations that are transferred to it under section 31.

(2) A local authority shall immediately advise the Minister in writing of any appointment under subsection (1).

Designation of approved laboratories

38 The Minister may designate laboratories as approved laboratories that may conduct laboratory analyses for the purposes of this Act.

Revolving fund

39(1) The Minister shall establish and administer a revolving fund for the Department to be used for the following purposes:

(a) to pay for initial expenditures incurred in taking emergency measures under this Act to protect the environment;

(b) to pay for the cost of reclaiming abandoned activities;

(c) to pay for the cost of work carried out by the Minister under section 27;

(d) to pay for the costs of reclamation of an activity after the 25-year period referred to in section 89(3).

(2) The Provincial Treasurer shall, on the requisition of the Minister, advance from the General Revenue Fund to the revolving fund any money required by the Minister to enable him to do any thing referred to in subsection (1).

(3) The net amount outstanding at any time in respect of advances under subsection (2) shall not exceed the amount prescribed in the regulations.

(4) As soon as practicable after the end of each fiscal year, the Minister, for the purposes of section 77 of the *Financial Administration Act*, shall ensure the preparation of financial statements covering the revolving fund for the immediately preceding fiscal year and a summary of the fund's assets and liabilities.

(5) The financial statements and summary of assets and liabilities shall be audited by the Auditor General.

Information public

40 All information provided to the Minister or the Director in the course of the administration of this Act is public information and may be released to the public unless the Minister or the Director is of the opinion that the information is confidential business information or that for any other reason it is not advisable to release the information.

Service

41 Where any notice, request, order, direction or other communication

is required to be given or served under this Act or the regulations, it shall be in writing and shall be deemed to be sufficiently given if it is

(a) personally given to or served on the person to whom it is directed,

(b) sent by registered or certified mail addressed to the person to whom it is directed at his last known address, or

(c) in the case of a registered owner of land, sent by registered or certified mail to his address as shown on the assessment roll.

Regulations by Minister

42 The Minister may make regulations

(a) defining "activity" for the purposes of this Act;

(b) defining "adverse effect" for the purposes of this Act;

(c) establishing fees for any information, service or material provided in the course of the administration of this Act and for the filing of any returns, reports or other documents that are required or permitted to be filed under this Act;

(d) prescribing the maximum amount for the purposes of section 39(3);

(e) prescribing forms for the purposes of this Act.

PART 2

ENVIRONMENTAL IMPACT ASSESSMENT AND APPROVALS

Definitions

43 In this Part,

(a) "environmental impact assessment" means

(i) the identification and analysis of the potential positive and negative impacts of a proposed project,

(ii) an analysis of the significance of those impacts, and

(iii) a determination of the acceptability of the proposed project;

(b) "environmental impact assessment process" means any or all of the procedures carried out under this Part in conducting an environmental impact assessment;

(c) "environmental impact assessment report" means an environmental impact assessment report required to be prepared under this Part;

(d) "mandatory project" means a project designated as a mandatory project under the regulations;

(e) "non-mandatory project" means a project that is not a mandatory project;

(f) "project" means an activity;

(g) "proponent" means any person, the Government of Canada and a department or agency of that Government that proposes to undertake a project;

(h) "proponent department" means any department of the Government that proposes to undertake a project on behalf of the Government.

Division 1
Environmental Impact Assessment

Purpose of environmental impact assessment process

44 The purpose of the environmental impact assessment process is

(a) to achieve the goal of environmentally sustainable development,

(b) to integrate environmental protection into economic decisions at the first possible stage in planning a project,

(c) to determine the environmental consequences of a project before a decision to proceed is made, and

(d) to provide for the involvement of the public and departments of the Government and government agencies in the environmental impact assessment process.

Consultation regarding proposed project

45(1) Every proponent and every proponent department wishing to undertake a project must first consult with the Director in writing in order to determine the degree to which the proposed project is subject to the environmental impact assessment process.

(2) Where an enactment other than this Act requires that a certificate, permit, licence, consent or other form of approval from an official of the Government or a government agency is required before a project that is regulated by that enactment may be undertaken, the consultation referred to in subsection (1) must take place before the official issues the certificate, permit, licence, consent or other form of approval.

Initial screening by Director

46(1) Subject to section 49, after consulting with the proponent or proponent department the Director shall determine whether the proposed project is subject to the environmental impact assessment process, and shall

(a) exempt the proposed project from further assessment under the environmental impact assessment process and, if it is a project for which an approval under Division 2 is required, refer it to the approval process, or

(b) ensure that an interdepartmental review of the proposed project is undertaken where the Director is of the opinion that the environmental consequences of the project warrant further consideration.

(2) The Director shall in accordance with the regulations publish notice of any decision he makes under subsection (1)(b).

(3) Any person, other than the proponent or the proponent department, who is directly affected by a decision of the Director under subsection (1)(b) may, within 30 days of the last publication of the notice under subsection (2) submit a written statement of concern to the Director setting out his concerns with respect to the proposed project.

Project screening report

47(1) Where the Director has decided under section 46(1)(b) that an interdepartmental review of a proposed project is required, he shall on completion of the review and in accordance with the regulations, prepare a project screening report stating

(a) the extent to which there may be any potentially adverse effects from the project, and

(b) whether preparation of an environmental impact assessment report is required.

(2) Where as a result of the review the Director determines that no further assessment of the proposed project under the environmental impact assessment process is necessary he shall advise the proponent or proponent department of that fact and, if the project is one for which an approval under Division 2 is required, refer it to the approval process under Division 2.

(3) Where as a result of the review the Director determines under subsection (1)(b) that preparation of an environmental impact assessment report is necessary he shall advise the proponent or proponent department accordingly.

(4) The Director shall publish the project screening report or a summary of it in accordance with the regulations.

(5) The Director shall, in accordance with the regulations

(a) publish notice of any determination he makes under subsection (2), and

(b) give notice of such a determination to any person who has submitted a statement of concern in respect of the proposed project under section 46(3).

Effect of statement of concern

48 The Director shall give due consideration to all statements of concern submitted to him and shall not make a determination under section 47(2) or (3) until the 30-day period referred to in section 46(3) has expired.

Environmental impact assessment report required

49 A proponent or proponent department shall prepare an environmental

impact assessment report in accordance with this Division in respect of an proposed project where

(a) the proposed project is a mandatory project,

(b) the Director determines under section 47(1)(b) that such a report is necessary and orders the preparation of the report, or

(c) the Minister is of the opinion that it is in the public interest that such a report be prepared and orders the preparation of the report.

Preparation of report

50(1) Where a proponent or proponent department is under an obligation to prepare an environmental impact assessment report it shall submit to the Director proposed terms of reference for the preparation of the report prepared in accordance with guidelines provided to the proponent or proponent department by the Director.

(2) The Director shall publish or require the proponent or proponent department to publish the proposed terms of reference in accordance with the regulations.

(3) After allowing what the Director considers to be a reasonable time for the receipt of comments in respect of the published terms of reference, and after giving due consideration to those comments, the Director shall provide final terms of reference for the preparation of the report to the proponent or proponent department.

Contents of report

51 An environmental impact assessment report must be prepared in accordance with the terms of reference referred to in section 50(3) and must include any or all of the following information, as required by the Director:

(a) a description of the purpose of and the reasons for the need for the proposed project;

(b) an identification of existing environmental conditions and areas of major concern that should be considered;

(c) a description of potential positive and negative impacts of the proposed project from the social, biophysical, economic, cultural, cumulative, regional, temporal and spatial perspectives;

(d) an analysis of the significance of the potential impacts as identified under clause (c);

(e) the plans that have been or will be developed to mitigate the potential negative impacts as identified under clause (c);

(f) the identification of potential impacts as identified under clause (c) which are not fully mitigated;

(g) a consideration of the alternatives to the proposal, including the alternative of not proceeding with the proposed project, and the impacts of those alternatives as set out in clause (c);

(h) the plans that have been or will be developed to monitor environmental impacts that are predicted to occur in the future;

(i) the contingency plan that has been or will be developed in order to respond to the unpredicted negative impacts;

(j) any other information that the Director considers necessary to assess the proposed project.

Publication of report

52 The Minister shall in accordance with the regulations publish or otherwise make available to the public, or require the proponent or

proponent department to publish or otherwise make available to the public, an environmental impact assessment report received by him.

Powers of Minister

53(1) Where the Minister receives an environmental impact assessment report that he considers to be complete he shall

(a) if the proposed project is a reviewable project within the meaning of the *Natural Resources Conservation Board Act*, advise the Board of that fact and refer the proponent or proponent department to that Board,

(b) if the proposed project is one in respect of which the approval of the Energy Resources Conservation Board is required, advise the Board of that fact and refer the proponent or proponent department to that Board, or

(c) if the proposed project is not one referred to in clause (a) or (b)

(i) decide that the project cannot proceed because in his opinion the potential negative impact of the project is unacceptable, or

(ii) refer the project to the approval process where it is a project for which an approval under Division 2 is required, together with any recommendations the Minister considers appropriate.

(2) Notwithstanding subsection (1)(c), where the Minister considers it appropriate he may refer a proposed project to the Lieutenant Governor in Council with the recommendation that the Lieutenant Governor in Council make an order prescribing the proposed project as a reviewable project within the meaning of the *Natural Resources Conservation Board Act*.

Regulations

54 The Lieutenant Governor in Council may make regulations

(a) designating mandatory projects;

(b) exempting projects or classes of projects from the application of the environmental impact assessment process;

(c) establishing procedures governing the environmental assessment process;

(d) establishing mechanisms and procedures

(i) for the publishing of anything required or permitted to be published under this Division, and

(ii) for the giving of any notice required or permitted to be given under this Division;

(e) respecting the preparation of project screening reports;

(f) respecting the form and content of environmental impact assessment reports;

(g) respecting the form and content of orders under section 49(b) or (c);

(h) respecting the establishment of terms of reference for the preparation of an environmental impact assessment report.

Division 2
Approvals and Certificates

Approvals

55 No person shall

(a) commence or continue any activity or use any thing, or

(b) permanently cease an activity,

designated by this Act or the regulations as requiring an approval unless he holds the appropriate approval.

Compliance with other requirements

56 Unless the regulations provide otherwise, the Director may not issue an approval under this Act unless he is satisfied

(a) that Division 1, if applicable, has been complied with, and

(b) that, in a case where the activity or thing to which the approval relates is governed by the *Natural Resources Conservation Board Act* or requires the approval of the Energy Resources Conservation Board, the applicable provisions of those Acts have been complied with.

Application for approval

57(1) An application for an approval must be made in accordance with the regulations and must disclose the following information relative to the activity or thing to which the application relates:

(a) the location and size of the activity or thing;

(b) the nature of the activity or of the use of the thing;

(c) the justification for any release of contaminants into the environment as a result of the activity or the use of the thing;

(d) the amounts of any substance that will be released into the environment as a result of the activity or the use of the thing, the methods by which the substance will be released and the steps taken to reduce the amount of the substance released;

(e) information that shows that the applicant has considered reasonable measures for minimizing waste production and that appropriate measures will be implemented to limit the amount of waste that will be disposed of;

(f) a description of any impact, including surface disturbance, that may or will result from the activity or use of the thing;

(g) the emergency response plans of the applicant;

(h) the reclamation plans of the applicant.

(2) The Director may require an applicant for an approval to submit any additional information that he considers necessary.

Issue of approval

58(1) The Director may issue or refuse to issue an approval.

(2) The Director may issue an approval subject to any terms and conditions he considers appropriate.

(3) The terms and conditions of an approval may be more stringent, but may not be less stringent, than applicable terms and conditions provided for in the regulations.

(4) An approval is valid for the period specified in the approval.

Change of activity or thing subject to an approval

59(1) No person shall alter, add to or in any other manner change an activity or the use of any thing that is the subject of an approval unless an approval authorising the change is issued by the Director.

(2) A person who wishes to alter, add to or in any other manner change an activity or the use of any thing under subsection (1) shall apply to the Director in accordance with the regulations.

(3) This section does not apply to adjustments, repairs, replacement or maintenance made in the normal course of operations.

Amendment and cancellation of approvals

60(1) On application by an approval holder the Director may

(a) amend a term or condition in an approval or add a term or condition to or delete a term or condition from an approval, or

(b) cancel an approval

if he considers it appropriate to do so.

(2) The Director may, on his own initiative and where he considers it appropriate to do so

(a) amend a term or condition in an approval or add a term or condition to or delete a term or condition from an approval if an adverse effect that was unanticipated at the time the approval was issued occurs or may occur,

(b) cancel an approval issued in error, or

(c) correct a clerical error in an approval.

(3) The Director shall give at least 30 days written notice to the approval holder of any proposed amendment, addition or deletion under subsection (2)(a).

Public notice of applications and proposed changes

61(1) Where the Director receives

(a) an application for an approval under section 57,

(b) an application under section 59(2) to alter, add to or change an activity or the use of a thing, or

(c) an application under section 60(1) to amend a term or condition in an approval or add a term or condition to or delete a term or condition from an approval,

he shall, in accordance with the regulations, publish or require the applicant to publish a notice of the application.

(2) Where the Director proposes to make an amendment, addition or deletion pursuant to section 60(2)(a) he shall, publish notice of his intention in accordance with the regulations.

(3) Notwithstanding subsection (1) or (2)

(a) a notice is not required under those subsections in any case where publication of notice is exempted by the regulations, and

(b) the Director may waive the notice requirements set out in subsections (1) and (2) where in his opinion

(i) there is an emergency,

(ii) the activity or thing to which the application relates or the proposed amendment, addition, deletion or variation will have no impact or only a minor impact on the environment, or

(iii) adequate notice of the subject matter of the application or the proposed amendment, addition, deletion or variation has already been given.

Statement of concern

62(1) Where a notice is published under section 61(1) or (2) any person who is directly affected by the application, amendment, addition or deletion, including the approval holder in a case referred to in section

61(2), may submit to the Director a written statement of concern setting out his concerns with respect to the application or the proposed amendment, addition or deletion.

(2) A statement of concern must be submitted not later than 30 days after the last publishing of the notice.

(3) The Director shall give due consideration to all statements of concern submitted to him under this section and

(a) shall in the case of an application referred to in section 61(1)

(i) deny the application, or

(ii) approve the application and issue the approval or make the amendment, addition or deletion,

or

(b) may in the case of a proposed amendment, addition or deletion referred to in section 61(2), make the amendment, addition or deletion.

(4) Where the Director issues an approval or makes an amendment, addition or deletion he may do so as originally contemplated in the application or proposal or with modifications, having given consideration to the statements of concern submitted and other relevant information.

Notice of decision taken

63(1) Where the Director

(a) issues an approval,

(b) makes an amendment, addition or deletion pursuant to an application under section 60(1), or

(c) makes an amendment, addition or deletion pursuant to section 60(2)(a)

notice of the decision must be given in accordance with the following:

(d) where no notice of the application or proposed changes was given by reason of the operation of section 61(3), the Director shall publish notice of the decision in accordance with the regulations;

(e) where notice of the application or proposed changes was given under section 61(1) or (2) the Director shall give notice of the decision in accordance with the regulations to every person who submitted a statement of concern.

(2) The Director shall give to the applicant or the approval holder, as the case may be, written notice of any decision made by the Director to issue or refuse to issue an approval or to make or refuse to make an amendment, addition, deletion or variation under this Division.

Transfer of approval

64(1) No person shall transfer, sell, lease, assign or otherwise dispose of an approval except in accordance with the regulations.

(2) The Director may impose any terms and conditions he considers appropriate on the transfer, sale, lease, assignment or other disposition of an approval.

New information

65 An approval holder shall forthwith submit to the Director any new and relevant information respecting the release of contaminants as a result of the activity or the use of the thing to which the approval relates that comes to his attention after the issuance of the approval.

Cancellation of approval

66(1) The Minister may cancel or suspend an approval where he considers that it is in the public interest to do so.

(2) The Minister shall immediately on cancelling or suspending an approval

(a) give notice of the cancellation or suspension to the approval holder, and

(b) publish notice of the cancellation or suspension in the manner provided for in the regulations.

Certificate of variance

67(1) An approval holder and any other person who is engaged in any activity or the use of any thing that is governed by the regulations may apply to the Minister for a certificate of variance to vary a term or condition of the approval or a requirement of the regulations.

(2) An application for a certificate of variance and a certificate of variance shall be in the form prescribed in the regulations.

Issuance of certificate

68(1) The Minister may issue a certificate of variance if he is of the opinion that

(a) the activity or thing to which the certificate relates is operating or is likely to operate in contravention of a term or condition of the approval or a requirement of the regulations as a result of factors beyond the control of the applicant,

(b) the variation is not likely to result in the release of a contaminant that may cause an adverse effect, and

(c) refusal to grant a certificate of variance would result in serious economic hardship to the applicant without an offsetting benefit to others.

(2) The Minister may

(a) impose any terms and conditions that he considers appropriate with respect to any certificate of variance, and

(b) specify requirements as to the manner in which the activity or thing to which the certificate of variance relates is to be carried on or operated.

(3) A certificate of variance is in effect only during the period prescribed in it and, notwithstanding anything in this Act or the regulations, during that period

(a) the terms and conditions set out in it, and

(b) the terms and conditions of the approval or the requirements of the regulations that are not varied by it

apply to the activity or thing to which the certificate relates.

Certificate of competence required

69 No person shall commence or continue any activity or use any thing designated by this Act or the regulations as an activity or thing in respect of which a certificate of competence is required unless he holds the appropriate certificate of competence.

Application for certificate

70(1) An application for a certificate of competence or a renewal of a certificate of competence shall be made to the Director in accordance with the regulations.

(2) The Director may require an applicant for a certificate of competence or a renewal of a certificate of competence to submit any additional information that he considers necessary.

Issuance of certificate

71(1) The Director may issue a certificate of competence subject to any terms and conditions he considers appropriate.

(2) The terms and conditions of a certificate of competence may be more stringent, but may not be less stringent, than applicable terms and conditions provided for in the regulations.

(3) A certificate of competence is valid for the term prescribed in the regulations.

Alteration

72(1) The Director may

(a) delete or amend a term or condition of or add new terms and conditions to a certificate of competence if he considers it appropriate to do so,

(b) cancel a certificate of competence if he considers it appropriate to do so,

(c) amend a clerical error in a certificate of competence, or

(d) cancel a certificate of competence on application of the person who holds the certificate of competence.

(2) the Director shall notify the holder of a certificate of competence at least 30 days in advance of making a deletion, amendment or addition to the terms and conditions of a certificate of competence under subsection (1)(a).

Security

73(1) The Director may require that financial security or additional financial security in the form and amount provided for in the regulations be given in respect of an approval or certificate of competence issued under this Act.

(2) Subsection (1) does not apply to the Government or a government agency.

Ministerial regulations

74 The Minister may make regulations

(a) designating activities or things or classes of activities or things in respect of which an approval is required, and specifying the kind of approval required;

(b) designating activities or things or classes of activities or things in respect of which a certificate of competence is required;

(c) specifying requirements as to the manner in which the activity or thing that is the subject of the approval is to be tested or operated before normal operations commence;

(d) providing for the manner of determining when an activity is commenced, continued or ceased or a thing is used for the purposes of section 55;

(e) respecting the transfer, sale, lease, assignment or other disposition of approvals;

(f) requiring operators of equipment that may have an impact on the environment to meet specified eligibility requirements as to training or experience or both.

Lieutenant Governor in Council regulations

75(1) The Lieutenant Governor in Council may make regulations

(a) prescribing the procedure for the submission of applications for approvals and certificates of competence, the form and content of the applications, the conditions required to be met by applicants for approvals and certificates of competence and the kinds of plans and specifications that must accompany applications;

(b) prescribing the terms and conditions on which approvals and certificates of competence may be granted and to which they are subject;

(c) prescribing the length of time for which approvals and certificates of competence may be issued and permitting the Director to issue an approval or certificate of competence for a shorter period of time than prescribed in the regulations;

(d) prescribing the administrative and referral procedures by which applications for approvals and certificates of competence may be dealt with;

(e) authorizing the Minister to prescribe the nature and amount of security to be given a bond to be provided or insurance to be carried by an applicant for or a holder of an approval or a certificate of competence;

(f) governing and prohibiting any activity or the use of any thing for the purposes of the protection of the environment including regulations governing the design, construction, maintenance or operation of the activity or thing;

(g) referring to, incorporating or adopting in whole or part or with modifications, documents that set out guidelines for or relate to environmental quality, the prevention or control of the release of

contaminants carrying on of an activity or the design, construction, maintenance or use of any thing;

(h) respecting the taking of samples of any thing and regulating the frequency, methods and procedures in respect of the sampling;

(i) regulating and prohibiting the manufacture, sale or use of any equipment, device or service designed or provided for any purpose related to the protection of the environment;

(j) respecting the submission of reports and returns in respect of activities or things;

(k) respecting the records to be kept in respect of an activity or thing, the form of them, the person by whom, the place at which and the length of time they are to be kept;

(l) requiring the submission of records to the Director or providing for their inspection by him;

(m) respecting the manner in which notice under section 61(1) and (2) and 63(1) is to be given;

(n) exempting applications, amendments, additions or deletions from the application of section 61(1) and (2);

(o) generally, providing for any other matters necessary for the purposes of this Part.

(2) A regulation may be made under subsection (1)(f), (g), (h), (i), (j), (k), (l) or (o) whether or not the activity or thing to which it relates is one in respect of which an approval is required under this Act.

PART 3

RELEASE OF CONTAMINANTS

Release of contaminant prohibited

76 No person shall release or permit the release of a contaminant into the environment in an amount, concentration or level in excess of that prescribed by

(a) an approval, where the activity or thing in respect of which the release occurs is governed by an approval, or

(b) the regulations where an approval is not required in respect of the activity or thing from which the release occurs.

Proactive environmental protection order

77 Notwithstanding that an approval has been issued or that the approval holder is in compliance with the terms and conditions of the approval, where the Director is of the opinion that a release of a contaminant into the environment may occur and may cause an adverse effect, he may make an environmental protection order ordering the person responsible to do any or all of the following:

(a) investigate the situation;

(b) take the action specified by the Director to prevent the release;

(c) measure the rate of release or the ambient concentration, or both, of the contaminant;

(d) report on any matter ordered to be done in accordance with directions set out in the order.

Reactive environmental protection order

78 Notwithstanding that an approval has been issued or that the approval holder is in compliance with the terms and conditions of the approval, where the Director is of the opinion that a release of a contaminant into the environment has occurred and is causing an adverse effect that, in a case where an approval has been issued was unforseen at the time of issuance of the approval, he may make an environmental protection order ordering the person responsible to do any or all of the following:

(a) investigate the situation;

(b) remedy the effects of the contaminant on the environment;

(c) restore the environment and area affected by the release or the presence of the contaminant to a condition satisfactory to the Director;

(d) measure the rate of release or the ambient concentration, or both, of the contaminant;

(e) report on any matter ordered to be done in accordance with the directions set out in the order.

Regulations by Minister

79 The Minister may make regulations

(a) prescribing the maximum permissible ambient concentration of a contaminant in the environment;

(b) prescribing the maximum permissible calculated ground level concentration of a contaminant in the environment;

(c) prescribing the maximum concentration of a contaminant that may be released into the environment;

(d) prescribing the maximum weight of a contaminant that may be released into environment;

(e) prescribing the maximum rate of release of a contaminant into the environment;

(f) respecting the method or type of method or instrument for measuring or determining

(i) the ambient concentration of a contaminant,

(ii) the calculated ground level concentration of a contaminant in the environment,

(iii) the concentration of a contaminant released into the environment,

(iv) the weight of a contaminant released into the environment,

(v) the rate of release of a contaminant into the environment, and

(vi) visible emissions;

(g) prescribing the maximum temperature or the permissible changes in temperature of surface water or any watercourse specified in the regulations;

(h) prescribing the point at which a measurement pursuant to the regulations is to take place;

(i) prescribing the maximum visible emissions permitted to be released;

(j) establishing a program for the certification of visible emission readers, including regulations respecting

(i) the manner in which visible emission readers are taught and certified,

(ii) the issuing, suspension and cancellation of certificates of competence, and

(iii) the regulation of the activities of visible emission readers.

Lieutenant Governor in Council regulations

80 The Lieutenant Governor in Council may make regulations

(a) regulating or prohibiting any use of land or any action in respect of land whereby any contaminant is released on or under any land, including

(i) adjacent to or underlying a watercourse, or

(ii) adjacent to or overlying an aquifer;

(b) regulating the quantity and purity of water to be applied to land for the purpose of irrigation or watering of plant life, if the water so applied may directly or indirectly cause an adverse effect;

(c) regulating and prohibiting the removal or rendering ineffective of any device or thing that reduces or prevents or is intended to reduce or prevent the release of any contaminant and is attached or connected to or forming part of any thing;

(d) generally, for the protection of the environment and the regulation of sources of contaminants.

PART 4

CONSERVATION AND RECLAMATION

Definitions

81 In this Part,

(a) "expropriation board" means the board, person or other body having the power to order termination of a right of entry order as to the whole or part of any land affected by the order;

(b) "interim reclamation certificate" means an interim reclamation certificate issued under section 86;

(c) "operator" means

(i) a person who uses specified land for any of the purposes set out in clause (g),

(ii) a successor, assignee, executor or administrator of a person referred to in subclause (i), and

(iii) an agent of a person referred to in subclause (i) or (ii);

(d) "reclamation certificate" means a reclamation certificate issued under this Part;

(e) "reclamation inquiry" means a reclamation inquiry conducted under this Part;

(f) "right of entry order" means

(i) an order granting right of entry that is made

(A) by the Surface Rights Board under the *Surface Rights Act*, or

(B) under a former Act within the meaning of that term in the *Surface Rights Act;*

(ii) an order for the expropriation of land or an interest in land required for the purposes of a pipeline or transmission line that is made by the Surface Rights Board, the Public Utilities Board or a predecessor of either of them;

(g) "specified land" means land

(i) on which an activity is carried on, or

(ii) that is designated as land in the regulations,

but does not include land used solely in connection with a retail establishment that serves the general public.

(h) "surface lease" means a lease, easement, licence, agreement or other instrument granted or made before or after the commencement of this Part and under which the surface of land has been or is being held;

(i) "surrender" means a surrender, relinquishment, quit claim, release, notice, agreement or other instrument by which a surface lease is discharged or otherwise terminated as to the whole or part of the land affected by the surface lease;

(j) "termination" means the termination of a right of entry order by an expropriation board as to the whole or part of the land affected by the order.

Security by operator

82(1) The Director may require that financial security or additional financial security in the form and amount provided for in the regulations be given by an operator under this Part.

(2) Subsection (1) does not apply to the Government or a government agency.

Duty to reclaim

83 An operator shall

(a) reclaim specified land in accordance with

(i) any applicable terms and conditions in any applicable approval,

(ii) the terms and conditions of any environmental protection order regarding reclamation that is issued under this Part,

(iii) the directions of an inspector, and

(iv) this Act and the regulations,

and

(b) secure a reclamation certificate in respect of the reclamation.

Issuance of reclamation certificate

84(1) An application for a reclamation certificate must be made in the form and manner provided for in the regulations.

(2) An inspector shall issue a reclamation certificate if he is satisfied that the reclamation has been completed in accordance with section 83(a).

Reclamation inquiry

85 An inspector shall, when required to do so by the regulations, conduct a reclamation inquiry in accordance with the regulations.

Interim reclamation certificate

86(1) If the Director is satisfied that the owner or occupant of specified land that is subject to a surface lease or right of entry order has consented to the surrender or termination of the surface lease or right of entry order, the Director may issue an interim reclamation certificate authorizing the cancellation of the surface lease or right of entry order, before a reclamation inquiry is held.

(2) Where an interim reclamation certificate has been issued, an inspector may hold a reclamation inquiry with respect to the condition of specified land referred to in the certificate and, at or following the inquiry may issue

(a) an environmental protection order regarding reclamation, or

(b) a reclamation certificate,

in respect of the land.

Amendment and cancellation of certificate

87(1) The Director may

(a) amend a term or condition in a reclamation certificate or add a term or condition to or delete a term or condition from a reclamation certificate if he considers it appropriate to do so,

(b) cancel a reclamation certificate issued in error, or

(c) correct a clerical error in a reclamation certificate.

(2) The Director shall promptly give notice of any amendment, addition, deletion or cancellation to the person to whom the reclamation certificate was issued.

Inspector's environmental protection order

88 Subject to any applicable approval and the regulations, an inspector may issue an environmental protection order directing the performance of any work or the suspension of any work that in his opinion is necessary in order to properly reclaim specified land.

Environmental protection order after reclamation certificate

89(1) Notwithstanding that a reclamation certificate has been issued pursuant to section 84 or 86(2), where an inspector is of the opinion that further work may be necessary for reclamation of the specified land, the inspector may

(a) conduct a reclamation inquiry in accordance with the regulations, and

(b) issue an environmental protection order directing the performance of any work that in the inspector's opinion is necessary to properly reclaim the land.

(2) No environmental protection order may be issued under this section if in reclaiming the specified land prior to the issuance of the reclamation certificate the operator

(a) acted in good faith, and

(b) used the best methods, equipment and technology that were reasonably available to him at the time.

(3) No reclamation inquiry may be conducted under this section more than 25 years after the issuance of the reclamation certificate.

Order re off-site damage

90 Where, after conducting a reclamation inquiry in accordance with the regulations, an inspector is satisfied that an operator

(a) has done or permitted to be done anything that has caused an adverse effect in a location other than the specified land in respect of which he is carrying out his activity, or

(b) has caused or allowed a substance to leave or escape from the specified land in respect of which he is carrying out his activity,

the inspector may make an environmental protection order regarding reclamation in respect of the matter in accordance with the regulations.

Order to operator

91 An environmental protection order under this Part shall be directed to the operator.

Failure to comply with order

92 Where the Director carries out any action under section 27 to effect compliance with an environmental protection order under this Part, he may pay the cost of carrying out that action from the Conservation and Reclamation Security Fund.

No surrender or termination without reclamation certificate

93(1) Notwithstanding anything in any other Act or any surface lease or right of entry order,

(a) no surrender of a surface lease is effective or binding on any person, and

(b) no expropriation board shall order the termination of a right of entry order

in so far as the surrender or termination relates to any interest of the registered owner, until a reclamation certificate has been issued in respect of the specified land affected by the surrender or termination.

(2) Subsection (1), in so far as it relates to right of entry orders, applies only to

(a) right of entry orders pertaining to transmission lines in effect after August 15, 1978, and

(b) right of entry orders of any other kind, where the lease or order is in effect on or after June 1, 1963.

(3) Notwithstanding subsection (1), an expropriation board may order the termination of a right of entry order without a reclamation certificate in any case where

(a) the parties to the order have entered into a surface lease with respect to the specified land affected by the order and have requested the termination,

(b) the specified land affected by the order has been acquired or expropriated by the Crown or by a municipal corporation, or

(c) the expropriation board is satisfied that the operator has not exercised his rights under the order.

(4) The surrender or termination of a surface lease or right of entry order as to all or any part of the specified land in respect of which a reclamation certificate is issued is not affected by an appeal under section 16(1)(e) or (f).

Copies of orders and certificates

94 Where an environmental protection order or a reclamation certificate is issued under this Part, the person issuing the order or certificate shall

(a) in the case of an environmental protection order, immediately give a copy of the order to the registered owner of the land concerned, and

(b) in the case of a reclamation certificate, immediately give a copy of the certificate to the registered owner of the specified land concerned and to any other person whom the person issuing the order considers to be directly affected by the activity to which the certificate relates.

Conservation and Reclamation Council

95(1) The Land Surface Conservation and Reclamation Council established under the *Land Surface Conservation and Reclamation Act* is continued as the Conservation and Reclamation Council, consisting of the following persons appointed by the Minister:

(a) an employee of the Department of the Environment, who shall be the chairman;

(b) 2 employees of the Department of Forestry, Lands and Wildlife designated by the Minister of Forestry, Lands and Wildlife, who shall be deputy chairmen;

(c) persons appointed pursuant to the *Public Service Act;*

(d) employees of the Government or of government agencies;

(e) persons designated by local authorities in accordance with the regulations.

(2) The Council shall carry out the functions and duties relating to reclamation of land that are assigned to it in the regulations.

Conservation and Reclamation Security Fund

96(1) The Surface Reclamation Fund established under the *Land Surface Conservation and Reclamation Act* is continued as the Conservation and Reclamation Security Fund, to be used for the purpose of reclamation under this Part.

(2) The Fund shall be held and administered by the Provincial Treasurer in accordance with this Act and the regulations, and the Provincial Treasurer shall maintain a separate accounting record of the Fund.

(3) All money required by the Minister to be deposited with the Government as security or additional security

(a) in respect of an approval or certificate of competence,

(b) under section 82, or

(c) in respect of an agreement referred to in section 98(a)

shall be paid into the Fund.

Annual report re Fund

97(1) The Minister shall, on or before May 31 in each year, prepare a report regarding the operation of the Fund during the preceding fiscal year.

(2) A report prepared under subsection (1) shall be placed by the Minister before the Legislative Assembly if it is then sitting and, if not, within 15 days after the commencement of the next sitting.

Disposition of money in Fund

98 The Minister may in accordance with

(a) any agreement entered into by the Minister,

(b) section 96, or

(c) any agreement, arrangement, direction or trust that applies to any money paid into the Conservation and Reclamation Security Fund,

direct the Provincial Treasurer with respect to the return, forfeiture, retention or expenditure of money paid into the Fund.

Return of security

99(1) Where an operator has given security under this Part the Minister shall return all or part of any money deposited as security on application of the operator, if

(a) a reclamation certificate has been issued, and

(b) in the opinion of an inspector, no further work is required to reclaim the specified land.

(2) The Minister may require that all or part of any money deposited as security be retained where

(a) further time is required to determine if the reclamation of the land is complete, or

(b) the reclamation has not been completed in a manner satisfactory to an inspector.

(3) Where all or part of any money deposited as a security is retained, an inspector shall issue to the operator an environmental protection order regarding reclamation specifying the work which is required to reclaim the land and the operator may apply again under subsection (1) for the return of the security deposit after the work required by the environmental protection order has been completed.

(4) If the government pays any money under this Act for the cost of reclamation of specified land because of a failure to comply with an environmental protection order regarding reclamation,

(a) the Minister may order that the money deposited as security by the operator be forfeited to the Crown in right of Alberta, and

(b) the amount, if any, by which the security so forfeited exceeds the money so paid by the government shall be returned to the operator.

(5) Notwithstanding subsection (1)(b), if the reclamation or part of the reclamation of the specified land has been completed in a manner satisfactory to an inspector but no reclamation certificate will be issued under this Act until any applicable approval terminates or the operator surrenders his interest in the land, the Minister on application by the operator may return to the operator all or any part of the money deposited as security as he considers appropriate.

Regulations by Lieutenant Governor in Council

100 The Lieutenant Governor in Council may make regulations

(a) respecting the manner in which specified land must be reclaimed;

(b) respecting the manner in which any kind of activity on or in respect of specified land may be conducted for purposes in connection with or incidental to the reclamation of the land;

(c) respecting the establishment of standards or criteria to be used in order to determine whether reclamation has been completed in a satisfactory manner;

(d) prescribing the circumstances under which a reclamation inquiry may be conducted by inspectors other than those appointed by local authorities;

(e) prescribing the numbers and kinds of inspectors who may conduct a reclamation inquiry;

(f) providing for procedures respecting the conduct of reclamation inquiries;

(g) authorizing the Minister to prescribe the nature and amount of security to be given by operators;

(h) governing the decommissioning of an activity related to specified land and the methods and requirements to be observed in decommissioning;

(i) designating land as specified land;

(j) respecting the terms and conditions that may be contained in an environmental protection order regarding reclamation and a reclamation certificate;

(k) providing for the designation by local authorities of persons to be appointed as members of the Conservation and Reclamation Council;

(l) governing the payment of remuneration and expenses to members of the Conservation and Reclamation Council appointed under section 95(1)(e);

(m) assigning to the Conservation and Reclamation Council functions and duties relating to reclamation of land, or providing for the manner of assigning those functions and duties;

(n) governing the practice and procedure of the Conservation and Reclamation Council and general matters relating to the administration of the affairs of the Council;

(o) governing the administration of the Conservation and Reclamation Security Fund.

PART 5

WATER WELL DRILLERS

Definitions

101 In this Part,

(a) "abandon" means, with regard to a well, to leave unattended or not to maintain for future use;

(b) "decommission" means to dispose of in accordance with the regulations;

(c) "drill" means to drill, bore or otherwise make, extend, alter or recondition;

(d) "driller" means a person who is authorized under this Act to drill or decommission a well;

(e) "drilling machine" means a machine that is designed to be used or is used to drill a well;

(f) "groundwater" means all water under the surface of the ground;

(g) "inactive well" means a well that is not currently being used but is being maintained for future use;

(h) "reconditioning" means flushing, cleaning, recasing, relining, rescreening or redeveloping an existing well by means of a drilling machine for the purpose of improving water production or the quality of the water produced by the well;

(i) "well" means an opening in the ground, whether drilled or naturally occurring, that is used for

(i) the production of groundwater for any purpose referred to in the *Water Resources Act*,

(ii) the purpose of obtaining data on groundwater, or

(iii) recharging an underground formation from which groundwater can be recovered,

but does not include a dugout.

Return of tags, etc.

102 When an approval issued for the drilling of wells is cancelled or suspended under section 66 or by an enforcement order under section 184, the approval holder shall forthwith return to the Director the approval and any tags, decals, plates, devices or documents that serve as evidence that a drilling machine is being operated under an approval.

Environmental protection orders

103(1) The Director may issue an environmental protection order directed to the owner of land on which a well is located, the driller of a well or the person responsible for a well in the following cases:

(a) with regard to a problem well, requiring

(i) that the well be decommissioned, or

(ii) that remedial action be taken with respect to the well

in accordance with the regulations;

(b) where the Director is of the opinion that any actions related to the drilling of a well may cause an adverse effect,

(i) specifying any action which must be taken to prevent, repair or remedy the adverse effect, and

(ii) ordering the modification, suspension or stopping of the actions related to the drilling of the well that is or may be causing an adverse effect;

(2) Where the Director is of the opinion that any drilling that is regulated under the *Oil and Gas Conservation Act*, the *Mines and Minerals Act*, the *Public Lands Act*, the *Forests Act* or the *Public Highways Development Act* may have a harmful effect on ground water he may issue an environmental protection order directed to the person responsible for the drilling directing either or both of the following:

(a) action that must be taken to prevent, repair or remedy the harmful effect;

(b) the modification, suspension or stopping of any actions related to the drilling that is causing or may cause the harmful effect.

Emergency environmental protection order

104(1) An inspector, an investigator or the Director may issue an environmental protection order to the owner of land on which a well is located, the driller of a well or the person responsible for a well directing the performance of emergency measures he considers necessary when he is of the opinion that danger to human life, health or the environment may occur or is occurring from any actions related to a problem well or the drilling of a well.

(2) An environmental protection order under subsection (1) shall contain the reasons for making it and where it is made by an inspector or an investigator he shall submit a copy of it to the Director immediately after making it.

Emergency measures

105 Where any actions related to a problem well or the drilling of a well have occurred that an inspector, an investigator or the Director considers may cause or is causing danger to human life, health or the environment,

the inspector, investigator or Director may take whatever emergency measures he considers necessary to protect human life, health or the environment, whether or not he issues an environmental protection order.

Duty to consult

106 An inspector or investigator shall make all reasonable efforts to consult with the Director before issuing an environmental protection order under section 104 or taking any emergency measures under section 105.

Recovery of costs

107 The costs of carrying out emergency measures under section 105 shall be paid on demand by the person who the inspector, investigator or Director considers to be responsible for the need to take the emergency measures, and are recoverable by an action in debt.

Regulations by Minister

108 The Minister may make regulations

(a) respecting the qualifications for drillers;

(b) providing for the issuing of tags, decals, plates, documents or other devices to an approval holder to serve as evidence that a drilling machine is being operated under an approval;

(c) providing for the display or production of a tag, decal, plate, document or other device referred to in clause (b);

(d) prohibiting the use of a drilling machine unless a tag, decal, plate, document or other device referred to in clause (b) has been issued in respect of that drilling machine;

(e) requiring and governing the taking of samples, tests, analyses, surveys and logs and other well data and the submission of them to the Director;

(f) governing official well names and their registration;

(g) governing the decommissioning of wells and the methods and requirements to be observed in decommissioning operations;

(h) defining "problem well" for the purposes of this Part and the regulations;

(i) governing remedial action to be taken in respect of problem wells;

(j) governing the control of flowing wells;

(k) respecting the methods of drilling wells and of determining sources of groundwater;

(l) respecting the precautions and measures to be taken before a well is commenced and during the drilling and development of a well;

(m) respecting the casing, anchorage, equipment, materials and installations to be used in the drilling, completion, operation, reconditioning and production of wells;

(n) respecting the maintenance of inactive wells.

Regulations by the Lieutenant Governor in Council

109 The Lieutenant Governor in Council may make regulations

(a) requiring that written notification be sent to the Controller of Water Resources under the *Water Resources Act* before commencing the drilling of a well or a well that is of a particular class or type;

(b) prohibiting drilling through water, oil, gas, coal or other minerals unless adequate measures are taken to confine the water, oil, gas or other mineral to its original stratum and to protect that

stratum or any coal seam or other mineral deposit or any workings therein from infiltration, inundation, migration or injury;

(c) prescribing the nature and extent of the measures referred to in clause (b) that are to be taken.

PART 6

DRINKING WATER

Definitions

110 In this Part,

(a) "disinfection" means a process that has as its objective destroying or inactivating pathogenic micro-organisms in water;

(b) "ground water" means water at a depth of more than 15 metres beneath the surface of the ground;

(c) "municipal development" means any development consisting of 2 or more lots that share a common waterworks system;

(d) "municipal water distribution system" means a system of pipes, valves, fittings and appurtenances that is used to convey potable water from a waterworks system to the service connection at property boundaries;

(e) "surface water" means water in a watercourse and water at a depth of not more than 15 metres beneath the surface of the ground;

(f) "well" means well as defined in section 101(i).

Release of substances prohibited

111 No person shall release a substance or permit the release of a substance into any part of a waterworks system

(a) that has or may have a harmful effect on the health of any person, or

(b) that causes the concentration of the substance in the potable water supplied by the system to exceed the maximum permitted concentration for the substance specified in the regulations.

Duty of owner and operator

112 The owner and the operator of a waterworks system shall ensure that the potable water supplied by the system does not contain a substance in a concentration in excess of the maximum permitted concentration for the substance specified in the regulations.

Environmental protection order

113(1) Notwithstanding that an approval has been issued or that the approval holder is in compliance with the terms and conditions of the approval the Director may issue an environmental protection order to the owner or operator of a waterworks system where, in the opinion of the Director, the waterworks system is being operated or maintained in a manner that is causing or may cause the potable water supplied by that system to have a harmful effect on the health of any person or that is causing or may cause the concentration of a substance in the potable water supplied by the system to exceed the maximum permitted concentration for the substance specified in the regulations.

(2) In an environmental protection order issued under subsection (1), the Director may require the owner or operator of the waterworks system to take any or all of the following measures:

(a) to construct, improve, replace, extend, enlarge, repair or modify the waterworks system or any part of a waterworks system;

(b) to operate or maintain the waterworks system according to such terms and conditions that the Director believes are necessary;

(c) to install, replace or alter any equipment or thing relating the the waterworks system;

(d) to take any other action the Director believes is necessary to protect or restore the quality of the potable water;

(e) to report on any matter relating to the construction or operation of the waterworks system.

Emergency environmental protection order

114(1) Where an inspector, an investigator or the Director is of the opinion that any potable water supplied by a waterworks system is causing or may cause a danger to human life or health, he may issue an environmental protection order to the owner or operator of the waterworks system directing the performance of emergency measures he considers to be necessary.

(2) An environmental protection order under subsection (1) shall contain the reasons for making it and where it is made by an inspector or an investigator, he shall submit a copy of it to the Director immediately after making it.

Emergency measures

115 Where an inspector, an investigator or the Director is of the opinion that any potable water supplied by a waterworks system is causing or may cause a danger to human life or health he may take whatever emergency measures he considers necessary to protect human life or health, without issuing an environmental protection order.

Duty to consult

116 An inspector or investigator shall make all reasonable efforts to consult with the Director before issuing an environmental protection order under section 114 or taking any emergency measures under section 115.

Recovery of costs

117 The costs of carrying out emergency measures under section 115 shall be paid on demand by the person who the inspector, investigator or director considers to be responsible for the need to take the emergency measures, and are recoverable by an action in debt.

Regulations by Minister

118 The Minister may make regulations

(a) prescribing substances for the purposes of sections 111, 112 and 113 and providing for the establishment of maximum permitted concentrations for those substances in potable water;

(b) prescribing methods for determining the concentration of a substance in potable water;

(c) governing the design, construction, maintenance or operation of

(i) any type of waterworks system or part of a waterworks system, or

(ii) any equipment, device or apparatus used in connection with any type of waterworks system;

(d) governing the purity of potable water;

(e) governing and prohibiting the manufacture, sale or use of any equipment, process, chemical, substance or thing to be used in the treatment or disinfection of potable water.

PART 7

MINIMIZATION OF WASTE AND RECYCLING

Definitions

119 In this Part,

(a) "depot" means a place established or operated as a business by any person for the collection of designated material;

(b) "package" means a container in which a commodity is sold and includes, but is not limited to a wrapper, bag, box, tray, bottle or can;

(c) "recycle docket" means a register or label respecting the contents of a shipment of recyclable material, made in accordance with the regulations;

(d) "retailer" mans a person who sells designated material and includes a person acting or purporting to act on his behalf.

Prohibition against consignment of recyclable material

120 No person shall consign for shipment any recyclable material unless

(a) the recyclable material is accompanied by a recycle docket, and

(b) the recyclable material is being consigned to a facility in respect of which an approval has been issued authorizing it to recycle recyclable material.

Surcharge for designated material

121 A person who manufactures a designated material in Alberta, or distributes for sale in Alberta a designated material manufactured outside of Alberta shall

(a) collect the surcharge prescribed for the designated material in the regulations, and

(b) deposit the surcharge in a recycling fund approved by the Minister.

Collection depots

122 A person who manufactures a designated material in Alberta or distributes for sale in Alberta a designated material manufactured outside of Alberta shall provide in Alberta depots of the description and in the numbers specified by the Minister by notice in writing to the person.

Regulations by Lieutenant Governor in Council

123 The Lieutenant Governor in Council may make regulations

(a) designating designated material for the purposes of this Part and creating different classes of designated material for different purposes;

(b) requiring that designated material be recycled;

(c) requiring a retailer or depot operator to pay for designated material returned for recycling;

(d) specifying designated material for which payment must be made by a retailer or depot operator on its return for recycling;

(e) specifying the amount that a retailer or depot operator is to pay for designated material returned for recycling;

(f) respecting the establishment and operation of depots;

(g) requiring a municipality to provide a collection system for designated material;

(h) prohibiting the manufacture, sale or distribution of specified designated material;

(i) requiring manufacturers or distributors of designated material to collect the designated material and specifying the manner in which the collection is to be done;

(j) requiring manufacturers or distributors to pay depot operators and retailers in respect of the collection of designated materials and prescribing the amount of the payments or the manner in which they are calculated.

(k) respecting surcharges for the purposes of section 121, including without limitation, regulations setting out the classes of designated material for which surcharges are payable, prescribing the amount of a surcharge or the method of determining it, providing for the refunding of surcharges, and providing for the manner in which and the times at which a surcharge is to be collected and paid;

(l) respecting the establishment and operation of recycling funds for the purposes of section 121(b);

(m) respecting the advertising of surcharges;

(n) authorizing the Minister to require financial security respecting surcharges collected by manufacturers or distributors;

(o) requiring the development and implementation of a waste minimization, recycling or recovery plan for designated material by manufacturers and distributors of the designated material;

(p) governing the packaging and labelling of designated material;

(q) governing the post-consumer waste content of commodities;

(r) respecting the form and content of recycle dockets and other documents used under this Part;

(s) governing recyclable materials and their treatment as hazardous waste;

(t) requiring the keeping of records in respect of designated material, including who must keep them, the manner in which they must be kept and what they must contain;

(u) respecting the provision of information in respect of designated material, including what information must be provided, who must provide it and the manner in which and the time at which it must be provided;

(v) respecting the giving of incentives other than grants for the purpose of promoting and assisting in the minimization of waste and promoting and assisting in recycling.

PART 8

WASTE MANAGEMENT

DISCUSSION DRAFT

Definitions

124 In this Part,

(a) "by-law" includes, in the case of an improvement district or special area, an order of the Minister of Municipal Affairs;

(b) "hazardous waste management facility" means a waste management facility for the collection, storage, treatment and disposal of hazardous waste;

(c) "litter" means

(i) any solid or liquid material or product or combination thereof including but not limited to

(A) rubbish, refuse, garbage, paper, packaging, containers, bottles, cans, manure, human or animal excrement, sewage or the whole or a part of an animal carcass, or

(B) the whole or part of any article, raw or processed material, vehicle or other machinery that is disposed of,

or

(ii) any other thing that is designated as litter in the regulations;

(d) "public land" means land of the Crown in right of Alberta other than a highway;

(e) "unsightly property" means any property on which there is litter which causes the property to look unsightly;

Hazardous Waste

Identification number required for hazardous waste

125(1) No person shall

(a) generate hazardous waste and permit that hazardous waste to leave the premises where it was generated,

(b) collect hazardous waste from the premises referred to in clause (a),

(c) consign or transport hazardous waste, or

(d) accept hazardous waste for transportation, treatment or disposal, or store or provide storage facilities for hazardous waste where the hazardous waste is generated by another person,

unless he or his employer has been issued a personal identification number by the Director.

(2) An application for a personal identification number must be made in the form and manner provided for in the regulations.

Cancellation of identification number

126 The Director may cancel a personal indentification number where he considers it appropriate to do so.

Manifest required for hazardous wastes

127 No person shall consign or transport or accept for transportation, storage, treatment or disposal any hazardous waste unless the waste is accompanied by a manifest that

(a) is completed in accordance with the regulations,

(b) accurately identifies the quantity, composition and points of origin and destination of the hazardous waste, and

(c) contains the personal identification number of each person consigning, transporting or accepting the waste.

Litter

Litter on public land

128 No person shall dispose of litter on public land except

(a) in a container placed for the purpose of collecting it, or

(b) in accordance with the *Forest and Prairie Protection Act*, the regulations under that Act and the regulations under this Act.

Litter on highways

129(1) No person shall dispose of litter on a highway except in a container placed for the purpose of collecting it.

(2) No person shall transport litter in or on a vehicle on a highway if the litter is likely to fall off or blow off the vehicle unless the litter while being transported is adequately secured to prevent it from falling off or adequately covered to prevent it from blowing off the vehicle.

(3) If litter is disposed of from a vehicle, other than a bus or taxi, and it cannot be determined which of 2 or more occupants of the vehicle transporting the litter is responsible for the disposal, the operator of the vehicle is deemed to be the person who disposed of the litter.

(4) If litter is disposed of from a vehicle, other than a bus or taxi, and it cannot be determined who is the operator of the vehicle transporting the litter, the owner of the vehicle shall be deemed to be the person who disposed of the litter unless he proves to the satisfaction of a court that at the time of the offence the vehicle was not being operated or parked or left by him or by any other person with his consent, express or implied.

Litter on municipally owned land

130 No person shall dispose of litter on any land owned by a local authority or owned by the Crown and administered by the Minister of Municipal Affairs except

(a) at a waste management facility established pursuant to the regulations made under the *Public Health Act*,

(b) through a municipal refuse disposal system,

(c) in a container placed for the purpose of collecting it,

(d) by burning it

(i) in accordance with a permit, licence or other consent issued by a local authority, or

(ii) pursuant to an approval under this Act,

or

(e) in any other manner specified in the regulations under this Act.

Litter on other person's land

131 No person shall dispose of litter on any land other than his own unless the owner or person in control of the other land agrees to its disposal.

Unsightly Property

Environmental protection order to clean up unsightly property

132(1) Subject to section 135, if an inspector considers any property when viewed from a highway to be unsightly property, he may issue an environmental protection order to clean up the unsightly property.

(2) The environmental protection order shall be issued to

(a) the registered owner, or

(b) the person in control

of the property that is the subject of the environmental protection order.

(3) The environmental protection order may require the person to whom it is issued to do any or all of the following within a period of time specified in the order, which must not be more than 60 days from the date of the making of the order:

(a) remedy the condition of the property in the manner and to the extent directed in the order;

(b) demolish or remove any litter causing or contributing to the unsightliness of the property;

(c) construct any thing to prevent the property from being visible from a highway;

(d) do any other thing to remedy the unsightliness of the property.

Liability of local authority for costs of cleaning

133(1) When an environmental protection order under section 132 is issued in respect of land that is located in a municipality and the person to whom it is issued fails to comply with the order, the Director may, in writing, direct the local authority of that municipality to perform any work required under the order.

(2) When expenses are incurred by a local authority for any work performed as a result of a direction by the Director under subsection (1), the local authority may serve a statement of the expenses, together with a demand for payment,

(a) on the occupant and on the registered owner of the land, and

(b) in the case of unoccupied land, on the registered owner.

(3) A copy of the statement of expenses and demand for payment that is served pursuant to subsection (2), shall be served on the council of the municipality in a case where the municipality is a city, town, new town, village, summer village, municipal district or county.

Collection of expenses as taxes

134 If the person on whom the statement of expenses and demand for payment are served fails to pay the amount set out in the statement

within 30 days, the local authority may cause the amount paid by it to be placed on the tax roll as an additional tax against the land concerned and the amount may be collected in the same manner as taxes are collected.

Environmental protection order where by-law exists

135(1) Where there is a by-law concerning unsightly property in effect in a municipality, the procedures in this section and section 136 apply.

(2) An inspector shall notify the Director in writing if he considers any property in a municipality in which a by-law referred to in subsection (1) is in effect to be unsightly property when viewed from a highway.

(3) On receipt of a notification under subsection (2), the Director may by notice in writing request the local authority of the municipality to enforce its by-law concerning unsightly property.

(4) If the local authority fails to commence proceedings to enforce its by-law within 10 days of the date of the Director's request under subsection (3), the Director may issue an environmental protection order to clean up unsightly property to the local authority.

(5) Section 132(3) applies to an environmental protection order under this section.

Review of environmental protection orders to clean up

136(1) Where the Director

(a) issues a direction to a local authority under section 133(1), or

(b) issues an environmental protection order to a local authority under section 135(4)

the local authority may request the Minister to review the direction or order.

(2) Where an environmental protection order is issued under section 132 to a person other than a local authority, that person may request the local authority of the municipality in which the property is located to review the order.

(3) A request for review under subsection (1) or (2) must be made in writing within 21 days of the date the person requesting the review received the direction or the order, as the case may be.

(4) A request for review shall be heard by

(a) the Minister in the case of a request made under subsection (1), or

(b) in the case of a request made under subsection (2), a committee appointed by

(i) the Minister of Municipal Affairs, where the land concerned is located in an improvement district or special area, or

(ii) the council of the city, town, new town, village, summer village, municipal district or county when the land concerned is located in such a municipality.

(5) A committee appointed under subsection (4)(b)(ii) must include at least one elected member of the council of the municipality.

(6) The Minister or the committee, as the case may be, may confirm, rescind or vary the direction or order appealed.

Regulations

Regulations by Lieutenant Governor in Council

137(1) The Lieutenant Governor in Council may make regulations

(a) exempting any person from the application of all or any of the provisions of this Part or the regulations under this Part;

(b) designating any thing as hazardous waste for the purposes of this Act, including designating classes of hazardous waste;

(c) governing the application for and the issuance of personal identification numbers for the purposes of section 125;

(d) governing the completion, retention, use, disposition and filing of manifests and copies of manifests, and prescribing the form of the manifest;

(e) designating any thing as litter;

(f) respecting the provision of litter collection containers;

(g) respecting the disposal of litter on public land;

(h) respecting the storage, collection, transportation, treatment and disposal of hazardous waste;

(i) respecting the procedure relating to requests for review of environmental protection orders to clean up unsightly property and the conduct of the review.

PART 9

HAZARDOUS SUBSTANCES AND PESTICIDES

Definitions

138 In this Part,

(a) "agricultural operation" means the production or any step in the production of livestock, grain, forage crops, poultry, furs, honey or

any other agricultural product, but does not include any other type of business operation carried on by a farmer;

(b) "extermination" with respect to a pest, means the destruction, prevention or control of the pest by means of a pesticide;

(c) "Green Area" means that part of Alberta shown outlined and coloured green on the map annexed to

(i) a Ministerial Order dated April 5, 1989 and made pursuant to section 10 of the *Public Lands Act*, as that Order is amended from time to time, or

(ii) any order made in substitution for that Order, as amended from time to time;

(d) "sell" includes keep for sale, expose for sale, offer for sale and advertise for sale.

Hazardous Substances and Pesticides Generally

Storing and handling

139 A person who keeps, stores or transports a hazardous substance or pesticide, or a container that contains or contained such a substance or pesticide shall do so in a manner that

(a) ensures that the substance, pesticide or container does not come into contact with or contaminate animals or plants or food or drink for human consumption, and

(b) prevents the substance or pesticide from coming directly or indirectly into contact with human, animal or plant life in any manner that may be injurious to that life.

Environmental protection order regarding contaminated matter

140 The Director may issue an environmental protection order

(a) to any person prohibiting or restricting, either permanently or for any length of time he considers necessary, the sale, handling, use or distribution of any crop, food, feed, plant, water, produce, or other matter that has been or may have been contaminated by a hazardous substance or pesticide specified in the environmental protection order;

(b) to any person ordering any crop, food, feed, animal, plant, water, open body of water, produce, product or other matter that has been or may have been contaminated by a hazardous substance or pesticide specified in the environmental protection order to be destroyed, decontaminated or otherwise rendered harmless;

(c) to any person requiring the replacement of a hazardous substance or pesticide specified in the order with another hazardous substance or pesticide that does not pose a danger to the environment or to human life or health;

(d) to the seller of a hazardous substance or pesticide specified in the order requiring the seller to accept the return of the hazardous substance or pesticide and to provide a refund to the purchaser of it;

(e) to any person requiring the taking of any other measures the Director considers appropriate in order to protect the environment or human life or health against a hazardous substance or pesticide specified in the order.

Sale or distribution prohibited

141 No person shall, without the consent of the Minister, sell or distribute any crop, food, feed, plant, water, produce or other matter

which he knows or ought reasonably to know has been contaminated by a hazardous substance or pesticide.

Environmental protection order regarding use of a hazardous substance

142(1) When, in the opinion of the Director, the use, handling, transportation, storage, sale, manufacture, disposal, display or method of application of a hazardous substance or pesticide causes or may cause an adverse effect the Director may issue an environmental protection order.

(2) An environmental protection order under subsection (1) shall be issued to the person responsible for the hazardous substance or pesticide.

(3) In an environmental protection order under subsection (1) the Director may order the person responsible to do all or any of the following:

(a) stop, limit or control the manufacture of the hazardous substance or pesticide the application of the hazardous substance or pesticide or the release of the hazardous substance or pesticide into the environment

(i) permanently,

(ii) for a specified period of time, or

(iii) in the circumstances set out in the environmental protection order;

(c) comply with any directions of the Director relating to the manner in which the hazardous substance or pesticide or any thing in which the hazardous substance or pesticide is or was contained may be handled, stored, used, disposed of, transported, displayed or manufactured;

(d) comply with any directions of the Director with regard to the clean-up of the hazardous substance or pesticide or of any site affected by the hazardous substance or pesticide.

Emergency environmental protection order

143(1) An inspector or investigator may issue an emergency environmental protection order to any person directing the carrying out of emergency measures specified in the order when he is of the opinion that danger to human life or health or to the environment is occurring or may occur as a result of

(a) the use, handling, transportation, storage, sale, disposal or display, or

(b) the method of application

of a hazardous substance or pesticide.

(2) An inspector or investigator shall make all reasonable efforts to consult with the Director prior to issuing an environmental protection order under subsection (1).

(3) An environmental protection order under subsection (1) shall contain the reasons for making it and where it is made by an inspector or an investigator, the inspector or investigator shall submit a copy of it to the Director immediately after making it.

Collection of data by Minister

144 For the purpose of assessing whether a substance is a hazardous substance, the Minister may collect data and samples and conduct investigations respecting a substance as he considers necessary.

Methods of securing information by Minister

145(1) Where the Minister has reason to suspect that a substance is a

hazardous substance, the Minister may

(a) publish in the Alberta Gazette or in local newspapers or in any other manner that the Minister considers appropriate, a notice requiring any person who is described in the notice and is engaged in an undertaking involving the substance to notify the Minister that the person is engaged in that undertaking, and

(b) send a written notice to any person requiring that person to provide the Minister with any information and samples that are specified in the notice and

(i) are in the possession of that person, or

(ii) to which that person may reasonably be expected to have access.

(2) A person to whom a notice referred to in subsection (1) is directed or sent shall comply with the notice within the time specified in the notice.

(3) The Minister may, on request in writing from any person to whom a notice referred to in subsection (1) has been directed or sent, extend the time within which the person must comply with the notice.

Notice to the Minister

146 Where a person who

(a) imports into Alberta or manufactures, transports, processes or distributes a substance for commercial purposes, or

(b) uses a substance in commercial manufacturing or processing,

obtains information that reasonably supports the conclusion that the substance is a hazardous substance, he shall immediately provide the

information to the Minister unless he has actual knowledge that the Minister already has the information.

Regulations re hazardous substances

147 The Lieutenant Governor in Council may make regulations

(a) generally for carrying out the purposes and provisions of this Part regarding information on and assessment of hazardous substances;

(b) classifying hazardous substances for the purposes of this Part;

(c) respecting the quantity or concentration of a hazardous substance that may be released into the environment either alone or in combination with any other substance from any source;

(d) respecting the places or areas where a hazardous substance may be released into the environment;

(e) respecting the commercial, manufacturing or processing undertaking in the course of which a hazardous substance may be released into the environment;

(f) respecting the manner and conditions under which a hazardous substance may be released into the environment, either alone or in combination with any other substance;

(g) respecting the quantity of a hazardous substance that may be imported into Alberta or that may be manufactured, processed, used or sold;

(h) respecting the purposes for which a hazardous substance or a product containing the hazardous substance may be imported into Alberta or may be manufactured, processed, used or sold;

(i) respecting and prohibiting the importation into Alberta or the manufacturing, processing, use or selling of a substance or a product containing a hazardous substance;

(j) respecting the quantity or concentration in which a hazardous substance may be used;

(k) respecting the quantity or concentration of a hazardous substance that may be contained in any product that is imported into Alberta or that is manufactured, processed, used or sold;

(l) respecting the manner in which and conditions under which a hazardous substance may be stored, displayed, handled, transported or offered for transport;

(m) respecting the packaging and labelling of a hazardous substance;

(n) respecting the submission to the Minister of information relating to a hazardous substance;

(o) respecting the conducting of sampling, analyses, tests, measurements or monitoring of a hazardous substance and the submission of the results to the Minister;

(p) respecting the submission of samples of a hazardous substance to the Minister;

(q) respecting circumstances or conditions under which the Minister may, for the proper administration of this Act, modify

(i) any requirement of the regulations for sampling, analyses, tests, measurements or monitoring, or

(ii) the methods and procedures specified in the regulations for conducting any required sampling, analyses, tests, measurements or monitoring;

(r) recalling products or materials containing a hazardous substance;

(s) any other matter necessary to carry out the purposes of this Part.

Pesticides

Prohibitions re sale and use

148(1) No person shall use or sell or otherwise supply a pesticide that does not meet the requirements prescribed by the regulations in respect of

(a) registration, if registration is required,

(b) packaging and labelling, and

(c) efficacy in relation to the purpose for which the pesticide was manufactured or made.

(2) No person shall use a pesticide

(a) for any purpose other than

(i) a purpose for which it is represented, sold or supplied by the manufacturer, distributor or retailer, or

(ii) a purpose that is prescribed in the regulations,

or

(b) in a manner other than one that is

(i) prescribed in the regulations, or

(ii) in the absence of regulations, specified on the label or other written recommendations of the manufacturer.

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(3) If there is a conflict between the purposes or manner of use prescribed in the regulations and the purposes or manner of use presented by the manufacturer, distributor or retailer, the regulations prevail.

Information on alternatives

149 Where under the regulations an approval is required in respect of the sale, supplying, use or application of a pesticide, the Director may require the applicant for the approval to submit information justifying the sale, supplying, use or application of the pesticide where there are alternative pest control methods that could be used.

Containers and storage

150(1) No person shall have in his possession a pesticide in a container other than

(a) the container in which the pesticide was originally stored for sale or offered for sale by the manufacturer, or

(b) a container that

(i) is of a type customarily used or approved for storing that pesticide by the manufacturer, and

(ii) is labelled as required by this Act and the regulations.

(2) This section does not apply to the storing or keeping of pesticides in holding or spray tanks.

Regulations by Minister

151 The Minister may make regulations

(a) classifying pesticides and making any provision of the regulations applicable to pesticides generally or to a class of pesticide.

(b) exempting any person, land, water or thing or class thereof from the application of this Part or the regulations under this section;

(c) requiring that any pesticide be registered before being sold, supplied or used;

(d) respecting the labelling of pesticides and pesticide containers;

(e) respecting the manner in which and the premises on or from which a pesticide may be stored, transported, packaged, handled, applied or sold or otherwise distributed;

(f) respecting containers for pesticides, other than containers in which pesticides are sold or offered for sale;

(g) governing signs, marking or other identification to be used

(i) on vehicles and equipment used in pesticide application or in extermination or the transportation of pesticides, and

(ii) on facilities used to store pesticides;

(h) respecting machines and other equipment used in connection with the storage, use, application or transportation of pesticides;

(i) respecting the application of pesticides on, over or near open bodies of water or land;

(j) respecting the cleaning of any equipment, apparatus, container, aircraft, watercraft, vehicle or machine used to hold, mix or apply a pesticide or in connection with a pesticide;

(k) regulating the construction of any enclosed space in which movable property may be placed for storage during the period of pesticide application and extermination and airing out;

(l) respecting the records to be kept by persons responsible for the transportation of pesticides in or on a vehicle operated on a highway;

(m) respecting any other matter that is necessary or advisable to carry out effectively the intent and purpose of this Part as it relates to pesticides.

Adoption of federal requirements

152 Regulations under section 151 may adopt any or all of the requirements prescribed by the *Pest Control Products Act* (Canada) and the regulations under that Act as the requirements in respect of the selling, handling, use, transportation and storage of pesticides.

PART 10

UNLAWFUL, UNAUTHORIZED AND ACCIDENTAL RELEASES

Interpretation and Application

Definitions

153 In this Part,

(a) "owner of a hazardous substance, pesticide or contaminant" means the owner of the hazardous substance, pesticide or contaminant immediately before the release of the hazardous substance, pesticide or contaminant and includes a successor, assignee, executor or administrator of the owner and any person who acts as agent of any of them;

(b) "person having control of a hazardous substance, pesticide or contaminant" means the person having charge, management or control of the hazardous substance, pesticide or contaminant.

Application

154 This Part applies only to unlawful releases, unauthorized releases and accidental releases of hazardous substances, pesticide or contaminants in Alberta except those that are exempted from the application of this Part by the regulations.

Duty to report

155(1) A person, other than the person having control of the hazardous substance, pesticide or contaminant, who releases or causes or permits the release of a hazardous substance, pesticide or contaminant into the environment shall, as soon as he knows or ought to know of the release, report it to

(a) the Director,

(b) the owner of the hazardous substance, pesticide or contaminant, where the person reporting is not the owner and knows or is readily able to ascertain the identity of the owner,

(c) the person having control of the hazardous substance, pesticide or contaminant, where the person reporting is not the person having control of the hazardous substance, pesticide or contaminant and is readily able to ascertain the identity of the person having control, and

(d) any other person who the person reporting knows or ought to know may be directly affected by the release.

(2) The person having control of a hazardous substance, pesticide or chemical that is released into the environment shall as soon as he knows of the release, report it to the persons referred to in subsection (1)(a),

(b) and (d) unless he has reasonable grounds to believe that those persons already have knowledge of the release.

(3) A police officer or employee of a local authority or other public authority who is informed of or who investigates a release shall immediately notify the Director of the release unless he has reasonable grounds to believe that it has been reported by another person.

Manner of reporting

156(1) A person who is required to report to the Director pursuant to section 155 shall report in person or by telephone and shall include the following in the report, where the information is known or can be readily obtained by him:

(a) the location and time of the release;

(b) a description of the circumstances leading up to the release;

(c) the type and quantity of the hazardous substance, pesticide or contaminant released;

(d) the details of any action taken and proposed to be taken at the release site;

(e) a description of the location of the release and the immediately surrounding area.

(2) In addition to a report under subsection (1), a person shall report in writing where required to do so by the regulations.

(3) A person who reports under subsection (1) or (2) shall give to the Director any additional information in respect of the release that the Director requires.

Duty to take remedial measures

157 Where a release of a hazardous substance, pesticide or contaminant into the environment occurs, the person responsible for the hazardous substance, pesticide or contaminant shall, when he becomes aware or ought to have become aware of the release,

(a) take all reasonable measures to

(i) repair, remedy, and confine the effects of the hazardous substance, pesticide or contaminant, and

(ii) remove the hazardous substance, pesticide or contaminant in such a manner to effect maximum protection to human life, health and the environment,

and

(b) restore the environment to a condition satisfactory to the Director.

Environmental protection order regarding a release

158 Where a hazardous substance, pesticide or contaminant is released into the environment, the Director may issue an environmental protection order to a person responsible to take any measures that the Director considers necessary to protect or restore the environment, including any or all of the following measures:

(a) to investigate the situation;

(b) to minimize or remedy the effects of the hazardous substance, pesticide or contaminant on the environment;

(c) to restore the area affected by the release or presence of the hazardous substance, pesticide or contaminant and the environment to a condition satisfactory to the Director;

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(d) to measure the rate of release or the ambient concentration, or both, of the hazardous substance, pesticide or contaminant;

(e) to monitor, measure, contain, remove, store, destroy or otherwise dispose of the hazardous substance, pesticide or contaminant or lessen or prevent further releases of or control the rate of release of the hazardous substance, pesticide or contaminant into the environment;

(f) to install, replace or alter any equipment or thing designed to control or eliminate the release of the hazardous substance, pesticide or contaminant into the environment;

(g) to report on any matter ordered to be done in accordance with directions set out in the order.

Emergency environmental protection order

159(1) Where a release of a hazardous substance, pesticide or contaminant has occurred and an inspector or investigator or the Director is of the opinion that danger to human life, health or the environment may occur or is occurring he may issue to a person responsible an environmental protection order directing the performance of emergency measures he considers necessary.

(2) An environmental protection order under subsection (1) shall contain the reasons for making it and where it is made by an inspector or an investigator he shall submit a copy of it to the Director immediately after making it.

Emergency measures

160 Where a release of a hazardous substance, pesticide or contaminant has occurred and an inspector or investigator or the Director is of the opinion that danger to human life, health or the environment may occur or is occurring he may take whatever emergency measures he considers

necessary to protect human life, health or the environment, whether or not he issues an environmental protection order.

Duty to consult

161 An inspector or investigator shall make all reasonable efforts to consult with the Director before issuing an environmental protection order under section 159 or taking any emergency measures under section 160.

Recovery of costs

162 The costs of carrying out emergency measures under section 160 shall be paid on demand by the person who the inspector, investigator or Director considers to be responsible for the need to take the emergency measures, and are recoverable by an action in debt.

Lieutenant Governor in Council regulations

163 The Lieutenant Governor in Council may make regulations

(a) classifying releases and exempting any release or any class of release from the application of this Part and attaching terms and conditions to any such exemption;

(b) prescribing when a report of a release shall be in writing and its contents.

PART 11

ENFORCEMENT

Definitions

164 In this Part,

(a) "document" includes a book, sound recording, videotape, film, photograph, chart, graph, map, plan, survey, book of account and

any other information that is recorded or stored by means of a device;

(b) "loss or damage" includes personal injury, loss of life, loss of use or enjoyment of property and pecuniary loss, including loss of income;

(c) "order to enter and inspect" means an order granted under section 172;

(d) "peace officer" means peace officer within the meaning of the *Police Act;*

(e) "place" includes any land, building, structure, machine, aircraft, vehicle or vessel.

Investigations and Inspections

NOTE: Sections 165 to 183 are the subject of an internal review to determine their constitutional validity.

Establishment of programs by Minister

165 The Minister may establish programs to promote the reporting of

(a) activities detrimental to the environment, and

(b) offences under this Act.

Application for investigation

166(1) Any 2 persons ordinarily resident in Canada who are not less than 18 years of age and who are of the opinion that an offence has been committed under this Act may apply to the Director for an investigation of the alleged offence.

(2) An application for an investigation shall be accompanied by a solemn declaration

(a) stating the names and addresses of the applicants,

(b) stating the nature of the alleged offence and the name of each person alleged to be involved in its commission, and

(c) containing a concise statement of the evidence supporting the allegations of the applicants.

Investigation on receipt of application

167(1) On receipt of an application under section 166, the Director shall acknowledge receipt of the application and investigate all matters that the Director considers necessary for a determination of the facts relating to the alleged offence.

(2) Within 90 days after receiving the application, the Director shall report to the applicant on the progress of the investigation and the action, if any, proposed to be taken in respect of the alleged offence.

(3) The Director may discontinue an investigation where he is of the opinion that the alleged offence does not require further investigation.

(4) Where an investigation is discontinued the Director shall

(a) prepare a report in writing stating the reasons for its discontinuance, and

(b) send a copy of the report to the applicants and to any person whose conduct was investigated.

Right of entry and inspection

168(1) For the purpose of the administration of this Act, an investigator

may, without a warrant or order to enter and inspect but subject to section 169, at any reasonable time do any or all of the following:

(a) enter and inspect any place to determine

(i) the extent, if any, to which a hazardous substance, pesticide or contaminant has caused an adverse effect,

(ii) the cause of any adverse effect that has occurred, and

(iii) how an adverse effect may be prevented, eliminated or ameliorated and the environment restored;

(b) enter and inspect any place in which the investigator reasonably believes waste can be found;

(c) enter and inspect any place in or from which the investigator reasonably believes a hazardous substance, pesticide or contaminant is being, has been or may be released into the environment;

(d) enter and inspect any place that the investigator reasonably believes is likely to contain documents related to,

(i) an activity or thing that is or is required to be the subject of an approval, certificate of variance, environmental protection order or enforcement order under this Act, or

(ii) the release of hazardous substance, pesticide or contaminant into the environment;

(e) enter and inspect any place that the investigator reasonably believes is, or is required to be, the subject of or referred to in an approval, certificate of variance, environmental protection order or enforcement order under this Act;

(f) stop and inspect any vehicle, aircraft or vessel that the investigator reasonably believes,

(i) is being operated in contravention of this Act or the regulations,

(ii) is releasing or has released a hazardous substance, pesticide or contaminant that causes or is likely to cause an adverse effect, or

(iii) is being used in the commission of an offence under this Act;

(g) stop and inspect any vehicle, aircraft or vessel to ascertain whether it or the manner in which it is being operated complies with this Act;

(h) enter any place for the purpose of carrying out any duty imposed or order or direction made or given under this Act, where there has been a release of a hazardous substance, pesticide or contaminant.

(i) require the production of any documents that are required to be kept under this Act or any other documents that are related to the purpose for which he is exercising any power under clauses (a) to (h).

(2) In the course of exercising his powers under subsection (1) the investigator may do any or all of the following things if they are related to the purpose for which he is exercising those powers:

(a) require that any thing be operated, used or set in motion under conditions specified by the investigator;

(b) use any machine, structure, material or equipment in the place he is inspecting in order to carry out his inspection;

(c) take samples of any substance or thing;

(d) conduct tests or take measurements;

(e) examine any documents that on reasonable grounds the investigator believes contain any information relevant to the administration of this Act and make copies or take extracts from them;

(f) use any computer system at any place to examine any data contained in or available to the computer system;

(g) record or copy any information by any method;

(h) reproduce any record from data in the form of a printout or other intelligible output;

(i) take a printout or other output for examination or copying;

(j) use any copying equipment to make copies;

(k) take any photographs or audio-video records;

(l) make reasonable inquiries of any person, orally or in writing.

(3) An investigator may remove documents that he is entitled to examine or copy or otherwise reproduce but if he does so he shall give a receipt to the person from whom they were taken and shall promptly return them when he is finished.

(4) An investigator who exercises the power set out in subsection (2)(l) may exclude from the questioning any person except counsel for the individual being questioned.

Private dwelling place

169 An investigator may not enter a private dwelling place or any part of a place that is designed to be used and is being used as a permanent or temporary private dwelling place except

(a) with the consent of the occupant of the place, or

(b) under the authority of an order to enter and inspect issued under section 172, or a search warrant issued under section 177.

Duty to stop a vehicle or vessel

170 The operator of a vehicle or vessel shall stop the vehicle or vessel when required to do so by an investigator who is readily identifiable as such.

Enforcement order to detain a thing

171(1) Where anything is releasing or may release a hazardous substance, pesticide or contaminant into the environment which causes or may cause an adverse effect, an investigator may, without an order to enter and inspect or a warrant,

(a) issue to the person responsible an enforcement order requiring that the thing be detained at the place where it is found, or

(b) remove the thing or cause it to be removed from the place where it is found and give a receipt for it.

(2) An investigator may not detain or remove a thing under subsection (1) for more than 5 days, excluding holidays, without the consent of the person responsible for it except under the authority of an order issued under subsection (3).

(3) Where a judge of the provincial court is satisfied on evidence on oath by an investigator that there is reasonable ground to believe that a thing detained or removed under subsection (1) should be detained or removed for longer than 5 days, excluding holidays, to protect or conserve the environment, the judge may issue or renew an order authorizing an investigator to detain or remove the thing for the period of time set out in the order.

(4) An investigator who applies for an order under subsection (3) shall give reasonable notice of the application to the person responsible for the thing to be detained or removed.

Order to enter and inspect

172(1) Where a judge of the provincial court is satisfied on evidence on oath by an investigator

(a) that there is reasonable ground for believing that it is appropriate for the administration of this Act for the investigator to do anything set out in section 168, and

(b) that the investigator may not be able to effectively carry out his duties without an order under this section because

(i) no person is present to grant access to a place that is locked or otherwise inaccessible,

(ii) a person has prevented the investigator from doing anything set out in section 168,

(iii) there is reasonable ground to believe that a person may prevent an investigator from doing anything set out in section 168,

(iv) it is impractical because of the remoteness of the place to be inspected or because of any other reason, for the investigator to obtain an order under this section without delay if access is denied, or

(v) there is reasonable ground to believe that an attempt by the investigator to do anything set out in section 168 without the order might defeat the purpose of that section or endanger human life, health, property or the environment,

the judge may issue an order to enter and inspect authorizing the investigator to do anything set out in section 168 and specified in the order for the period of time set out in the order.

(2) An order under this section expires not later than 30 days after the date on which it is made, and may be renewed for any reason set out in subsection (1) for one or more periods each of which is not more than 30 days.

(3) An appliction under subsection (2) may be made before or after the expiry of the period.

(4) An order under this section may be issued or renewed on application without notice.

Powers to be exercised at reasonable time

173 An investigator exercising his powers under section 172 must do so at a reasonable time unless otherwise authorized in the order that section.

Seizure without order or warrant

174(1) An investigator may, without a court order or warrant, seize any thing that is produced to the investigator, or that is in plain view, during an inspection under section 168 or 172 if the investigator has reasonable grounds to believe that there has been an offence committed under this Act and that the thing will afford evidence of the offence.

(2) The investigator may remove the thing seized or may detain it in the place where it is seized.

(3) The investigator shall inform the person from whom the thing was seized as to the reason for the seizure and shall give the person a receipt for it.

Search and seizure without a warrant

175(1) An investigator may with respect to a place exercise the powers described in section 177(5) without a warrant under that section if the investigator has reasonable grounds to believe that

(a) an offence has been committed under this Act,

(b) there is in the place any thing that will afford evidence as to the commission of an offence, and

(c) because of circumstances that require immediate action it would not be practical to obtain the warrant.

(2) For the purposes of subsection (1), "circumstances that require immediate action" includes circumstances in which the delay necessary to obtain a warrant under section 177 would result in danger to human life or the environment or the loss or destruction of evidence.

Bringing seized thing before judge

176 An investigator who seizes any thing under the authority of section 174 or 175 shall bring the thing seized before a judge of the provincial court or, if that is not reasonably possible, shall report the seizure to such a judge, who shall deal with it in accordance with section 177.

Warrant to search and seize

177(1) On an ex parte application by an investigator, a judge of the provincial court may issue a warrant in writing authorizing any person named in the warrant

(a) to enter and search any place for any thing that may afford evidence as to the commission of an offence under this Act,

(b) to seize any thing,

(i) by means of or in relation to which the investigator reasonably believes the offence occurred, and

(ii) that the investigator reasonably believes will afford evidence of the offence,

and

(c) as soon as practicable, to bring the thing before or make a report in respect of the thing to a judge of the provincial court to be dealt with in accordance with this section.

(2) An application under subsection (1) must be supported by information on oath establishing the facts on which the application is based.

(3) A provincial judge shall issue the warrant referred to in subsection (1) if he is satisfied that there are reasonable grounds to believe that

(a) an offence under this Act has been committed, and

(b) a thing that may afford evidence of the commission of the offence is likely to be found in the place specified in the application.

(4) A warrant issued under subsection (1) shall

(a) refer to the offence for which it is issued,

(b) identify the place to be searched,

(c) identify the person alleged to have committed the offence, and

(d) be reasonably specific as to the thing to be searched for and seized.

(5) An investigator who executes a warrant under subsection (1)

(a) may at any reasonable time enter and search the place referred to in the warrant,

(b) may exercise any of the powers referred to in section 168,

(c) may seize and detain, in addition to the thing referred to in the warrant, any other thing that he believes on reasonable grounds affords evidence of the commission of an offence under this Act, and

(d) shall, as soon as practicable, bring any thing seized before, or make a report in respect of it to, a judge of the provincial court.

(6) Subject to subsection (8), if any thing seized under subsection (5) is brought before a judge of the provincial court or a report in respect of it is made to the judge, the judge shall, unless the investigator waives retention of the thing, order that it be retained by the investigator.

(7) The investigator shall take reasonable care to ensure that the thing is preserved

(a) until the conclusion of any investigation into the offence in relation to which the thing was seized, or

(b) until the thing is required to be produced for the purposes of a prosecution under this Act.

(8) If a thing seized under subsection (5) is brought before a judge of the provincial court or a report in respect of it is made to a judge, the judge may, of his own motion or on summary application by a person with an interest in the thing, on 3 clear days' notice of the application to the Deputy Attorney General, order that the thing be returned to the person from whom it was seized or to the person who is otherwise legally entitled to it, if the judge is satisfied that

(a) the thing will not be required for an investigation or a prosecution under this Act, or

(b) the thing was not seized in accordance with the warrant or this section.

(9) The person from whom a thing is seized pursuant to this section is entitled at all reasonable times and subject to any reasonable conditions that are imposed by the investigator, to inspect the thing and, in the case of a document, to obtain one copy of the document free of charge.

Assistance by peace officer

178(1) An investigator exercising his powers or carrying out his duties under this Part may be accompanied by a peace officer.

(2) In executing an order to enter and inspect or a warrant, the investigator named in the order or warrant shall not use force unless he is specifically authorized to do so in the order or warrant and is accompanied by a peace officer.

Notice of contravention where seizure

179 An investigator who seizes and detains any thing under this Part shall, as soon as practicable, advise the person in whose possession it was at the time of seizure of the provision of this Act or the regulations that the investigator believes has been contravened.

Disposal of things seized

180(1) Where a person is convicted of an offence under this Act and any thing that was seized under this Part is then being detained, the thing shall, on the expiration of the time for taking an appeal from the conviction or on the final conclusion of the proceedings, as the case may be,

(a) be forfeited to the Crown in right of Alberta, if the court so directs, or

(b) be restored to the person from whom it was seized or to any other person who is entitled to possession of it, subject to any terms and conditions imposed by the court.

(2) Where a thing is forfeited under subsection (1)(a)

(a) the Minister may dispose of or destroy the thing, and

(b) the costs of the forfeiture and disposal or destruction are recoverable from the offender.

Assistance to investigators

181 The owner of an every person responsible for any place in respect of which an investigator is exercising his powers or carrying out his duties under this Part shall

(a) give the investigator all reasonable assistance to enable him to exercise those powers and carry out those duties, and

(b) furnish all information relative to the exercising of those powers and the carrying out of those duties that the investigator may reasonably require.

Interference with investigator

182 No person shall interfere with an investigator in the exercising of his powers or the carrying out of his duties under this Act.

Court order re interference

183 If a person interferes with an investigator in the exercising of his powers or the carrying out of his duties under this Act the investigator may apply to the Court of Queen's Bench for an order prohibiting that person from so interfering and the Court may make any order it considers appropriate.

Enforcement Orders

Enforcement orders by Minister

184(1) Where in the Minister's opinion a person has contravened or is contravening this Act or the regulations or a term or condition of an approval or certificate of competence, the Minister may issue an enforcement order ordering any or all of the following:

(a) the suspension or cancellation of the approval or a certificate of competence;

(b) the stopping or shutting down of any activity or thing either permanently or for a specified period;

(c) the ceasing of the construction or operation of any activity or thing until the Minister is satisfied the activity or thing will be constructed or operated in accordance with this Act, the regulations, the approval or the certificate of competence, as the case may be.

(2) An enforcement order issued under subsection (1) shall contain the reasons for making it.

Enforcement order by Director

185 Where in the Director's opinion a person has contravened or is contravening this Act or the regulations or a term or condition of an approval or certificate of competence, the Director may issue an enforcement order ordering any or all of the following:

(a) the taking of all necessary steps to limit, control, stop or clean up

(i) the release of a hazardous substance, pesticide or contaminant into the environment, or

(ii) a situation that could result in an adverse effect;

(b) compliance with any directions relating to any container of a hazardous substance, pesticide or contaminant;

(c) the removal of waste;

(d) compliance with any directions of the Director relating to a well within the meaning of that term in section 101(*i*);

(e) the stopping of the sale or offering for sale or the permitting of the sale or offering for sale of a designated material.

Enforcement order concerning litter

186(1) An investigator who has reason to believe that a person has contravened or is contravening section 128, 129, 130 or 131 may issue an enforcement order to that person in the form and containing the matters provided for in the regulations.

(2) If a person to whom an enforcement order is issued under subsection (1) complies with the order, no prosecution may be commenced for the offence under section 128, 129, 130 or 131, as the case may be, that gave rise to the order.

Additional contents of enforcement order

187(1) An enforcement order

(a) may require the submission of information,

(b) shall specify the measures that must be taken in order to effect compliance with this Act, the regulations, an approval or a certificate of competence,

(c) may in setting out measures referred to in clause (b) set out more stringent requirements than the applicable requirements in the regulations. and

(d) subject to clause (c) shall be in the form and contain the material required by the regulations.

(2) An enforcement order may be issued notwithstanding that the activity or thing that is the subject of the enforcement order

(a) is the subject of an approval, or

(b) is at the time the enforcement order is made being operated in accordance with this Act, the regulations or an approval.

Court order for compliance

188(1) If the person to whom an enforcement order is directed fails to comply with the enforcement order, the Minister may apply to the Court of Queen's Bench for an order of the Court directing that person to comply with the enforcement order.

(2) If the person to whom the enforcement order is directed fails to comply with the enforcement order immediately on service of a copy of an order made under subsection (1), the failure to comply with the enforcement order may be dealt with by the Court as a case of a civil contempt of Court.

(3) This section applies whether or not a conviction has been adjudged for an offence under this Act.

Failure to comply with enforcement order

189(1) If the person to whom an enforcement order is directed fails to comply with the order, the Director may take whatever action he considers necessary to effect compliance with the order.

(2) Costs under this section

(a) may be paid out of the Conservation and Reclamation Security Fund where this Act or the regulations so provide, and

(b) are recoverable by the Minister

(i) in an action in debt against the person to whom the enforcement order was directed, or

(ii) by ordering any purchaser of land from the person to whom the enforcement order was directed to pay to the Minister instead of to the vendor an amount not exceeding the amount owing in respect of the costs.

(3) For the purposes of this section the costs referred to in subsection (2) include, without limitation, any costs incurred in investigating and responding to any matter to which an enforcement order relates or to a violation of an enforcement order.

(4) Where a purchaser pays an amount to the Minister under subsection (2)(b)(ii) he is discharged from his obligation to pay that amount to the vendor.

(5) If a local authority fails to pay costs owing under this section, the Crown may deduct an amount equal to the amount of costs owing from any grant or other sum of money payable by the Crown to the local authority under any enactment.

No right to compensation

190 Subject to any regulations under section 213(a), a person to whom an enforcement order is directed is not entitled to compensation from the Crown for any loss resulting from or attributable to the issuing of the order.

Amendment and revocation of enforcement orders

191(1) The Minister may, with respect to an enforcement order issued by him, the Director or an investigator, and the Director may, with respect to an enforcement order issued by him or an investigator,

(a) amend a term or condition in an enforcement order or add a term or condition to or delete a term or condition from an enforcement order,

(b) cancel an enforcement order, or

(c) amend a clerical error in an enforcement order.

(2) A copy of an enforcement order issued under subsection (1) must be served on the same person to whom the original order was issued.

Civil Remedies

Injunction re commission of offence

192(1) Where, on the application of the Director, it appears to the Court of Queen's Bench that a person has done or is about to do any act or any thing constituting or directed toward the commission of an offence under this Act, the Court may issue an injunction ordering any person named in the application

(a) to refrain from doing any act or thing that it appears to the Court may constitute or be directed toward the commission of an offence under this Act, or

(b) to do any act or thing that it appears to the Court may prevent the commission of an offence under this Act.

(2) At least 48 hours notice of the application must be given to the party or parties named in the application unless the Court is of the

opinion that the urgency of the situation is such that giving of notice would not be in the public interest.

Civil cause of action

193 Any person who suffers loss or damage as a result of conduct that is contrary to any provision of this Act or the regulations may, in a court of competent jurisdiction, sue for and recover from the person who engaged in the conduct an amount equal to the loss or damage proved to have been suffered by the person.

Recovery of costs by the Government

194 The Minister may recover by action from any person who contravenes this Act or the regulations the costs incurred by the government in investigating the acts that constitute the contravention.

Injunction re loss or damage

195 Any person who suffers or is about to suffer loss or damage as a result of conduct that is contrary to this Act or the regulations may apply to the Court of Queen's Bench for an injunction ordering the person engaged in the conduct to

(a) refrain from doing any act that it appears to the Court causes or will cause the loss or damage, or

(b) to do any act or thing that it appears to the Court prevents or will prevent the loss or damage.

Offences and Penalties

Limitation period

196 A prosecution for an offence under this Act may be commenced at any time within, but not later than

(a) 2 years after the Director became aware of the occurrence of the alleged offence, or

(b) 2 years after the time when the alleged offence occurred, in a case referred to in section 197.

Private prosecution

197 Any person may institute a private prosecution in respect of any offence under this Act.

Offences

198 A person who

(a) provides false or misleading information pursuant to a requirement under this Act to provide information,

(b) fails to provide information as required under this Act,

(c) contravenes a term or condition of an approval or a certificate of competence,

(d) contravenes an enforcement order,

(e) contravenes an environmental protection order, or

(f) contravenes section 49, 55, 59, 69, 76, 102, 111, 112, 120, 121, 122, 125, 127, 128, 129, 130, 131, 139, 141, 148, 150, 155, 156, 157, 181, 182 or 202

is guilty of an offence.

Penalties

199(1) A person who commits

(a) an offence referred to in section 198(a), (c) or (d), or

(b) an offence under section 55, 59, 69, 76, 155, 156 or 202

is liable to a fine of not more than $1 000 000 or to imprisonment for not more than 6 months, or to both a fine and imprisonment.

(2) A person who commits

(a) an offence referred to in section 198(b) or (e), or

(b) an offence under section 111, 112, 139, 141, 148 or 157

is liable to a fine of not more than $500 000 or to imprisonment for 6 months, or to both a fine and imprisonment.

(3) A person who commits an offence under section 49, 102, 120, 121, 122, 125, 127, 150, 181 or 182 is liable to a fine of not more than $200 000 or to imprisonment for 6 months, or to both a fine and imprisonment.

(4) A person who commits an offence under section 128, 129, 130 or 131 is liable to a fine of not more than $1000.

Additional fine where monetary benefits acquired by offender

200 Where an offender has been convicted of an offence under this Act, the court may, where it is satisfied that as a result of the commission of the offence monetary benefits or that monetary benefits accrued to the offender, order the offender to pay, in addition to a fine under section 199, a fine in an amount equal to the court's estimation of the amount of those monetary benefits.

Continuing offences

201 Where an offence under this Act is committed or continued on more than one day, the person who committed the offence is liable to be

convicted for a separate offence for each day on which the offence is committed or continued.

Duty of directors and officers

202 The directors and officers of a corporation shall take all reasonable care to prevent the commission of an offence under this Act by the corporation.

Court orders relating to punishment

203(1) When a person is convicted of an offence under this Act, in addition to any other punishment that may be imposed under this Act, the court may, having regard to the nature of the offence and the circumstances surrounding its commission, make an order having any or all of the following effects:

(a) prohibiting the offender from doing anything that may result in the continuation or repetition of the offence;

(b) directing the offender to take any action the court considers appropriate to remedy or avoid any harm to the environment that results or may result from the act or omission that constituted the offence;

(c) directing the offender to publish, at his own cost, the facts relating to the conviction in the prescribed manner;

(d) directing the offender to notify, at his own cost and in the prescribed manner, any person aggrieved or affected by the offender's conduct of the facts relating to the conviction;

(e) directing the offender to post a bond or pay money into court in an amount that will ensure compliance with any order made pursuant to this section;

(f) directing the offender to submit to the Minister, on application to the court by the Minister made within 3 years after the date of conviction, any information with respect to the activities of the offender that the court considers appropriate in the circumstances;

(g) directing the offender to compensate the Minister, in whole or in part, for the cost of any remedial or preventative action taken by or caused to be taken on behalf of the Minister as a result of the act or omission that constituted the offence;

(h) directing the offender to perform community service;

(i) requiring the offender to comply with any other conditions the court considers appropriate in the circumstances for securing the offender's good conduct and for preventing the offender from repeating the same offence or committing other offences.

(2) Where an offender contravenes an order made under subsection (1)(c), the Minister may publish the facts in compliance with the order.

(3) Where the court makes an order under subsection (1)(g) or the Minister incurs publication costs under subsection (2), the costs constitute a debt due to the Crown in right of Alberta.

(4) An order made under subsection (1) comes into force on the day on which it is made or on any other day specified in the order and continues in force for the period specified in the order, not to exceed 3 years.

(5) The Lieutenant Governor in Council may make regulations prescribing the manner in which facts relating to convictions are to be published and notice is to be given for the purposes of subsection (1)(c) and (d).

Compensation for loss of property

204(1) Where a person is convicted of an offence under this Act, the court may, at the time sentence is imposed and on the application of a person aggrieved, order the offender to pay to the person an amount by

way of satisfaction or compensation for loss or or damage to property suffered by that person as a result of the commission of the offence.

(2) A person in whose favour an order is made under subsection (1) may file the order with the clerk of the Court of Queen's Bench and, on filing, the order may be enforced as if it were a judgment of the Court of Queen's Bench in civil proceedings.

Variation of court orders

205(1) Subject to subsection (2), where a court has made an order under section 203, the court may, on application by the offender or the Attorney General, require the offender to appear before it and, after hearing the offender and the Attorney General, may make any or all of the following orders if it considers that the circumstances of the offender have changed so as to warrant such an order:

(a) an order changing the original order or the conditions specified in it;

(b) an order relieving the offender absolutely or partially from compliance with any or all of the order;

(c) an order reducing the period for which the original order is to remain in effect;

(d) an order extending the period for which the original order is to remain in effect for an additional period, not to exceed one year.

(2) Before making an order under subsection (1), the court may direct that notice be given to any persons the court considers to be interested and the court may hear any such persons.

(3) Where an application made under this section in respect of an offender has been heard by a court, no other application under this section may be made with respect to the offender except with leave of the court.

Due diligence defence

206(1) No person shall be convicted of an offence under this Act, other than an offence under section 198(a) or (b), if he establishes that he exercised all due diligence to prevent its commission.

(2) No person shall be convicted of an offence under section 198(a) or (b) if he establishes that the offence was committed without his knowledge and the he exercised all due diligence to prevent its commission.

Ministerial regulations

207 The Minister may make regulations governing the form, issue, content and nature of enforcement orders issued under this Act.

Lieutenant Governor in Council regulations

208 The Lieutenant Governor in Council may make regulations

(a) providing with respect to any provision of the regulations, that its contravention constitutes an offence;

(b) prescribing penalties, including imprisonment, in respect of offences created under clause (a).

PART 12

MISCELLANEOUS PROVISIONS

Vicarious responsibility

209 For the purpose of this Act a person is responsible for

(a) acts and omissions of his employees and agents within the scope of their actual and apparent authority, and

(b) the use or operation of any vehicle, vessel, aircraft equipment or machinery by any other person with his express or implied consent.

Documentary evidence

210(1) In any proceeding under this Act

(a) an analyst's certificate or an analyst's report of the results of an analysis purporting to be signed by an analyst,

(b) a certificate purporting to be signed by person authorized to issue an approval, a certificate of competence or a certificate of variance stating that on a specified day or during a specified period a person named in the certificate was or was not the holder of an approval, a certificate of competence or a certificate of variance,

(c) a certificate setting out with reasonable particularity the conviction and sentence of a person for an offence under this Act purporting to be signed by

(i) the person who made the conviction, or

(ii) the clerk of the court in which the conviction was made,

and

(d) a statement purporting to be signed by the Director setting out the day on which the Director became aware of the subject matter of any proceedings

shall be admitted in evidence as prima facie proof of the contents of the certificate or statement, without proof of the signature or official character of the person signing the certificate or document.

(2) A notice, approval, environmental protection order, enforcement order, certificate of variance, certificate of competence or consent

purporting to be signed by the person authorized to issue, make or give it is admissible in evidence without proof of the signature or official character of the person signing it.

Monitoring data

211 Monitoring data provided to the Minister or the Director under this Act is admissible in evidence and is deemed to be accurate until the contrary is proven.

Certificate of analyst

212(1) No certificate or report of an analyst may be received in evidence unless the party intending to produce it has given to the party against whom it is intended to be produced, reasonable notice of that intention together with a copy of the certificate.

(2) The party against whom a certificate or report of an analyst is produced may, with the leave of the court, require the attendance of the analyst for the purpose of cross examination.

Lieutenant Governor in Council regulations

213 The Lieutenant Governor in Council may make regulations

(a) authorizing the payment of compensation by the Crown to any person for loss or damage suffered by that person as a result of the application to him of any provision of this Act or the regulations or as a result of an order directed to him under this Act, including regulations respecting

(i) the circumstances under which compensation will be paid, and

(ii) the manner in which a claim for compensation must be made and the amount payable is to be determined;

(b) authorizing the Minister to expropriate on behalf of Crown any estate or interest in land if he considers it necessary to do so for the purpose of enforcing or carrying out this Act.

PART 13

CONSEQUENTIAL, REPEAL AND COMMENCEMENT

Consequential amendments

214(*1*) *The Agricultural Pests Act is amended in section 8(c) by striking out "Agricultural Chemicals Act" and substituting "Environmental Protection and Enhancement Act".*

(2) The Department of the Environment Act is amended by repealing sections 1(a), 7, 11, 12, 13, 14, 15, 17 and 18.

(3) The Environment Council Act is amended by repealing section 4(1)(b).

(4) The Expropriation Act is amended by repealing section 70(4) and substituting the following:

(4) If the expropriated estate or interest is one to which Part 4 of the *Environmental Protection and Enhancement Act* applies, the court or the Board, as the case may be, shall not make an order under subsection (3) unless a reclamation certificate under that Act has been issued.

(5) The Local Authorities Board Act is amended in section 76 by striking out "a permit has first been obtained under the *Clean Water Act" and substituting* "any approval required under the *Environmental Protection and Enhancement Act* has been issued".

(6) The Municipal Government Act is amended

(a) in section 198 by striking out "Clean Water Act" and substituting "Environmental Protection and Enhancement Act";

(b) in section 338(1)(f) by striking out "the permit under the *Clean Water Act" and substituting* "any approval under the *Environmental Protection and Enhancement Act".*

(7) The Soil Conservation Act is amended by repealing section 2 and substituting the following:

2 This Act does not apply in respect of the use of specified land within the meaning of Part 4 of the *Environmental Protection and Enhancement Act.*

(8) The Special Waste Management Corporation Act is amended in section 1(d) by striking out "as defined in the *Hazardous Chemicals Act" and substituting* "within the meaning of the *Environmental Protection and Enhancement Act".*

(9) The Surface Rights Act is amended in section 31(4) and (5) by striking out "the *Land Surface Conservation and Reclamation Act" and substituting* "Part 4 of the *Environmental Protection and Enhancement Act".*

Repeal

215 *The following Acts are repealed:*

(a) Agricultural Chemicals Act;

(b) Beverage Container Act;

(c) Clean Air Act;

(d) Clean Water Act;

(e) Ground Water Development Act;

(f) Hazardous Chemicals Act;

(g) Land Surface Conservation and Reclamation Act;

(h) Litter Act.

Coming into force

216 *This Act comes into force on Proclamation.*